ECTOR COUNTY

INVESTMENT POLICIES AND PROCEDURAL MANUAL

LEGAL AUTHORITY TO INVEST

Chapter 2256, Government Code, Section 2256.003. AUTHORITY TO INVEST FUNDS: Authorizes a local government to purchase, sell, and invest its funds, and funds under its control, in investments authorized under this subchapter in compliance with investment policies approved by the Commissioners' Court and according to the standard of care prescribed by Section 2256.006.

Delegation of Investment Authority

In accordance with Section 2256.005 (f), the Ector County Commissioners Court delegates the authority to select investment instruments in which county funds may be placed and to prepare any documentation necessary to evidence the investment of county funds to the Ector County Treasurer and the Ector County Auditor jointly, hereafter Investment Officer. Occasionally, the Commissioners Court may designate, in writing, other Ector County personnel authority to invest county funds. The County Treasurer and the County Auditor determine the investment instruments to be purchased, and the County Treasurer wires the funds.

A written copy of this investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written Broker/Dealer Certification as prescribed in Exhibit I of this policy. Ector County may not acquire or otherwise obtain any authorized investment described in this investment policy from a person who has not delivered to Ector County the Broker/Dealer Certification.

County Investment Portfolio Structure

The county funds that are entrusted to the Commissioners' Court for investment are divided into the following portfolios based on the source of funds:

(a) The operating account portfolio means funds from the general fund account, the internal service funds, special revenue funds, and the enterprise funds.

(b) The debt service fund means all interest and sinking funds.

(c) The capital project funds mean funds from all capital projects except road funds.

(d) The trust and agency funds mean funds from grants or other funds not under the control of the Commissioners' Court.

Applicability of Policy

This policy governs the investment of the operating account portfolio, the bond funds portfolio, the debt service portfolio, and the trust and agency portfolio. The bond funds portfolio is managed in compliance with the governing ordinances and federal law, including the Tax Reform Act of 1986, as amended, in addition to compliance with this policy.

Prudence and Ethical Standards

Ector County uses the "prudent person rule" when managing the portfolios within the applicable legal and policy constraints. The prudent person rule is restated as follows:

> In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of Ector County.

In accordance with Section 2256.005 (i), an investment officer who has a personal business relationship with a business organization offering to engage in an investment transaction with Ector County shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to Ector County, shall file a statement disclosing that relationship. A statement required under this section must be filed with Ector County and the Texas Ethics Commission.

For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

> (1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;
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> (2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or,
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> (3) the investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

INVESTMENT STRATEGY

As described on page 1, ("County Investment Portfolio Structure"), Ector County maintains portfolios which utilize four specific investment considerations designed to address the unique characteristics of the fund groups represented in the portfolios. According to Section 2256.005 (d), as an integral part of an investment policy, Ector County shall adopt a separate written investment strategy for each of the funds or group of funds under its control.

Investment strategies for operating funds, as their primary objective, assure that anticipated cash flows are matched with adequate investment liquidity. The secondary objective is to create a portfolio structure which will experience minimal volatility during economic cycles. This may be accomplished by purchasing high quality, short to medium term securities which will compliment each other in a laddered maturity structure. The average weighted maturity of 365 days or less will be calculated using the stated final maturity dates of each security.

Investment strategies for debt service funds shall have, as the primary objective, the assurance of investment liquidity to cover the debt service obligation on the required payment date. Securities purchased shall not have a stated final maturity date which exceeds the debt service payment date if the purchase of the security will result in insufficient funds to meet the debt service payments. Except as may be required by the bond ordinance specific to an individual issue, securities should be of high quality, with short to intermediate term maturities. Volatility shall be further controlled through the purchase of securities carrying the highest possible yield available, within the desired maturity and quality range, without paying a premium, if at all possible. Such securities will tend to hold their value during economic cycles.

Investment strategies for capital project fund portfolios will have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. These portfolios should include at least 10% in highly liquid securities to allow for flexibility and unanticipated project outlays. The stated final maturity dates of securities held should not exceed the estimated project completion date.

Investment strategies for the trust and agency funds should be the same as for the operating funds with the exception of any laws or guidelines which established the funds.

The grouping of funds to enhance the purchasing of an investment is permitted only to the extent the strategy of the types of funds being grouped.

Regardless of the type of fund, the overall strategies for the investment of funds should be:

(1) The investment officer must have an understanding of the type of investment being considered in relationship to the type of funds being invested.

(2) The proposed investment must regard the preservation and safety of the principal to be invested (See Safety of Principal).

(3) The proposed investment must regard the liquidity needs of the fund (See Liquidity).

(4) The proposed investment must regard the marketability of the investment if the need arises to liquidate the investment before maturity.

(5) The investment officer must regard the diversification of the fund (See Diversification).

(6) The investment officer must regard the proposed yield on the proposed investment (See Return on Investment).

STANDARD OF CARE

In accordance with Section 2256.006, Ector County has established the following investment objectives for the investment of county funds.

Safety of Principal

The primary objective of Ector County is to ensure the safety of principal in all portfolios. (See Safety of Principal)

Maintenance of Adequate Liquidity

The secondary objective of Ector County, for all portfolios, is to provide the liquidity necessary to pay obligations as they become due. (See Liquidity)

Return on Investments (Yield)

Ector County must invest its portfolio in eligible investments that yield the highest possible rate of return while providing the necessary protection of the principal. Ector County seeks to optimize return on investments in all portfolios. The objective should be to obtain, at a minimum, the average minimum rate of return for the entire portfolio, excluding funds needed for current obligations, at least equal to a "no default risk" rate of return indicator, such as the return on the three-month Treasury Bill. If funds are subject to yield restrictions due to federal arbitrage regulations, those funds are excluded from the yield calculation. Ector County should only invest in a particular eligible investment if its yields are equal to or greater than the bond equivalent yield on United States Treasury obligations of comparable maturity.

Additional Objectives for Bond Funds Portfolio

The major objective for the bond funds governed by Federal arbitrage regulations is to maximize permitted market yield, and to minimize investment costs as well as the cost of compliance with the Federal arbitrage regulations.

SAFETY OF PRINCIPAL

Protection of Principal

In accordance with Section 2256.006 (a) (1), Ector County seeks to control the risk of loss due to the failure of a security issuer or grantor. To control that risk, Ector County purchases only eligible investments, requires prior approval of broker/dealer/financial institutions with which it transacts business, diversifies investments in all portfolios based on maturity and type, and collateralizes deposits. In addition, Ector County must execute the purchase of individual eligible investments only on the "delivery versus payment" method through the Federal Reserve System to ensure that county funds are not released until Ector County has received the securities purchased.

DIVERSIFICATION

The Investment Officer must minimize loss of principal in the operating fund portfolio by diversifying investments by type and maturity. The Investment Officer must maintain diversity in the types of investments purchased by limiting the percentage of the combined portfolios for each type of eligible investment to the percentage listed as follows:

Investment Type	Percentage Limit
U.S. Treasury Notes/Bonds/Bills	100%
Local Government Investment Pools	85%
U.S. Agencies and Instrumentalities	75%
Certificates of Deposit	50%
Repurchase Agreements	50%
Money Market Mutual Funds	50%
Commercial Paper	20%
Interest Bearing Checking Accounts	25%

The Investment Officer must limit repurchase agreements with a single broker to 15% of the operating fund portfolio. The Investment Officer must not make an investment in any Money Market Mutual Fund that exceeds 10% of the total assets of that Money Market Mutual Fund. The Investment Officer must not invest more than 5% of the operating fund portfolio in the commercial paper of a single entity.

Preliminary Requirements for Repurchase Agreements

Before Ector County enters into a repurchase agreement with any issuer, that issuer must sign a Master Repurchase Agreement and return it to the Investment Officer for filing. All Repurchase Agreements are recommended by the Investment Officer, reviewed by the Ector County Attorney's Office, and approved by the Commissioners Court.

Diversifying Operating Account Portfolio by Maturity

The Investment Officer must monitor the maturity dates of all investments in the operating fund portfolio to minimize risk of loss from interest rate fluctuations, and to ensure that the maturities do not exceed the anticipated cash flow requirements of the operating fund portfolio. The maturity on any investment shall not exceed a period greater than three years. The Investment Officer must also monitor the maturity dates of all investments in the operating fund portfolio to ensure that the average weighted days to maturity for all investments in the operating fund portfolio are less than 365 days, and the maximum maturities for repurchase agreements are less than 120 days. If these levels are exceeded, the Investment Officer must make changes in the investments held to reduce the maturities to comply with these requirements.

Diversifying Trust and Agency Portfolio by Maturity

Diversifying the trust and agency funds should follow the same policies as the operating funds, with the exception of any laws or guidelines establishing the funds.

Diversifying Bond Fund and Debt Service Fund Portfolios by Type

Within the bond funds and the debt service fund, the proceeds of a single bond issue may be segregated and invested in a single eligible investment, or group of eligible investments, designed to facilitate compliance with the arbitrage laws. In this case, the Investment Officer or Ector County's arbitrage advisors may determine that this type of strategy is necessary to comply with federal arbitrage restrictions or to facilitate arbitrage record-keeping and calculation. In all other cases, the Investment Officer must apply the diversification percentage requirements, as stated above, to the bond funds portfolio and the debt service fund portfolio.

Diversifying Bond Fund and Debt Service Fund Portfolios by Maturity

The Investment Officer must limit the maturity of the bond funds portfolio and the debt service fund portfolio to the "temporary period", as defined by the Internal Revenue Code, Section 148, during which bond proceeds may be segregated and invested at an unrestricted yield. After the temporary period ends, the Investment Officer must consider the anticipated cash flow requirements of the funds, and invest the portions of the bond funds portfolio and the debt service funds portfolio subject to yield restriction within limits permitted by Federal Arbitrage Regulations.

COLLATERALIZING DEPOSITS

Collateral Requirements for All Deposits

Certificates of deposit and bank deposits in financial institutions must be either federally insured or collateralized with obligations of the United States or its agencies. At all times, the market value of collateral must be equal to or greater than 102% of the par value of the certificate of deposits plus accrued interest and equal to or greater than 102% of the bank deposits less the insured balance by the Federal Deposit Insurance Corporation. Market value is defined as the face or par value of an investment multiplied by the premium or discount quoted on the valuation date, and does not include any accrued interest.

Monitoring Collateral Adequacy for All Deposits

Financial institutions with which Ector County has certificates of deposit or bank deposits must provide Ector County with monthly reports that state the market values of collateral. The Investment Officer monitors the adequacy of collateral at least weekly. If the value of the collateral falls below the required level, the financial institution must pledge additional collateral no later than the end of the next business day after the value falls below the required level.

Substituting Collateral for All Deposits

If the financial institution collateralizing certificates of deposit and bank deposits desires to substitute new collateral, the financial institution must contact the Investment Officer for approval. The Investment Officer must calculate the value of the substituted collateral. The value of the new collateral must equal at least the value of the original collateral. If the collateral has sufficient value, the Investment Officer may approve the substitution. The Investment Officer must notify the financial institution or the safekeeping agent holding the collateral when any substitution is approved. Although substitution is allowable, it should be limited to minimize a potential administrative burden. The Investment Officer may limit substitutions and assess reasonable fees if requests for substitution become excessive or abusive.

Agreements and Safekeeping for All Deposits

Financial institutions, serving as county depositories, must enter agreements for the safekeeping of collateral with both Ector County and its safekeeping agent to define Ector County's rights to the collateral in case of default, bankruptcy, or bank closing. All collateral securing deposits is held by the safekeeping agent.

Collateral Requirements for Repurchase Agreements

Issuers of repurchase agreements must collateralize them with obligations of the United States or its agencies or instrumentalities. These issuers must wire transfer the collateral to the safekeeping agent designated by Ector County through the Federal Reserve System. If the collateral matures in one year or less, the value of the collateral must be at least 101% of the par value of the repurchase agreement plus accrued interest. If the collateral matures in one to two years, the value of the collateral must be at least 102% of the par value of the repurchase agreement plus accrued interest.

Monitoring Collateral Adequacy for Repurchase Agreements

The Investment Officer must monitor all collateral underlying repurchase agreements weekly. More frequently monitoring may be necessary during periods of market volatility. If the value of the collateral for a repurchase agreement falls below the required level, the Investment Officer must make a margin call, unless the repurchase agreement matures within five business days and the difference between the value of the collateral and the required level is immaterial.

Substituting Collateral for Repurchase Agreements

The Investment Officer may allow the issuers of repurchase agreements to substitute collateral under the conditions stated in "Substituting Collateral for All Deposits".

Safekeeping of Repurchase Agreement Collateral

Issuers of repurchase agreements must transfer collateral for repurchase agreements to the safekeeping agent with which Ector County has established a safekeeping agreement. Issuers must transfer collateral under the delivery versus payment method.

LIQUIDITY

Investments are selected to meet anticipated cash needs. The Investment Officer must achieve liquidity by purchasing eligible investments, as described by this policy, with active secondary markets, such as Money Market Mutual Funds and Local Government Investment Pools.

The Investment Officer may liquidate an investment to meet unanticipated cash requirements, to redeploy cash into other investments expected to outperform current holdings, or to adjust the portfolios for other reasons.

The Investment Officer should, on a monthly basis, maintain a projected to actual cash flow analysis for each fund.

INVESTMENT RETURN ACHIEVEMENT

The Investment Officer must consider legality, safety, liquidity, risk, and rate of return in investment selection for all portfolios. Investments are made in securities with maturities corresponding to anticipated cash requirements. Investments are to take advantage of yield curves and earn additional returns. The Investment Officer must actively manage all Ector County portfolios to enhance total income in compliance with the "prudent person rule". The Investment Officer may use bond swaps to achieve these management goals.

Bond Swaps

If the demand for a bond from a particular agency creates a situation where the yields in that agency's bonds are the same or less than an equivalent treasury security, swapping the agency's bond for a treasury security can improve the quality of Ector County's portfolios. If bonds in a particular maturity range are limited in the market, swapping a bond in demand for a similar bond in a different maturity range may be advantageous. The Investment Officer may swap a bond held in any Ector County portfolio for a comparable bond in the market to improve portfolio yield. The Investment Officer may swap a bond held in an Ector County portfolio if the overall yield of the portfolio will not decrease after the swap, and the date of maturity of the new security is less than 181 days after the maturity date of the old security. The Investment Officer must solicit competitive bids for bond swaps. All bids received are documented and filed for auditing purposes.

AUTHORIZED INVESTMENTS

Within the guidelines provided by the Public Funds Investment Act, the Commissioners Court of Ector County has hereby adjudged and decreed that the following investments are allowed for Ector County funds:

OBLIGATIONS OF, OR GUARANTEED BY, GOVERNMENTAL ENTITIES, PUBLIC FUNDS INVESTMENT ACT, SECTION 2256.009:

(a) Except as provided in Subsection (b), the following are authorized investments:

(1) obligation of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal of and interest of, which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities; and

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.

(b) The following are not authorized investments under this subchapter:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations, the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

CERTIFICATES OF DEPOSIT, PUBLIC FUNDS INVESTMENT ACT, SECTION 2256.010:

(a) A certificate of deposit is an authorized investment if the certificate of deposit is issued by a depository institution that has its main office or a branch office in this state, and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009 (a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b);

(3) secured in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an

authorized investment under this subchapter:

(1) the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;

(4) the depository institution selected by the investing entity under Subdivision (1) acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and

(5) at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution selected by the investing entity under Subdivision (1) receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution selected under Subdivision (1).

REPURCHASE AGREEMENT, PUBLIC FUNDS INVESTMENT ACT, SECTION 2256.011:

(a) A fully collateralized repurchase agreement is an authorized investment if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009(a)(1);

(3) requires the securities being purchased by Ector County to be pledged to Ector County, held in the name of Ector County, and deposited at the time the investment is made with Ector County, or with a third party selected and approved by Ector County;

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution, approved by the Investment Officer, doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date, obligations described by Section 2256.009 (a)(1), with a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by Ector County under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments must mature not later than the expiration date stated in the reverse security repurchase agreement
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BANKERS' ACCEPTANCES, PUBLIC FUNDS INVESTMENT ACT, SECTION 2256.012:

A bankers' acceptance is an authorized investment if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a book organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1, or an equivalent rating, by at least one nationally recognized credit rating agency.

COMMERCIAL PAPER, PUBLIC FUNDS INVESTMENT ACT, SECTION 2256.013:

Commercial paper is an authorized investment if the commercial paper:

(1) has stated maturity of 270 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1, or an equivalent rating, by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

MUTUAL FUNDS, PUBLIC FUNDS INVESTMENT ACT, SECTION 2256.014:

(a) A no-load money market mutual fund is an authorized investment if the mutual fund:

(1) is registered with and regulated by the Securities and Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940;

(3) has a dollar-weighted average stated maturity of 90 days or fewer; and

(4) includes in its investment objectives the maintenance of a stable net asset value of $1 for each share.

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;

(2) has an average weighted maturity of less than two years;

(3) in invested exclusively in obligations approved by this subchapter;

(4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and

(5) conforms to the requirements set forth in Sections 2256.016 relating to the eligibility of investment pools to receive and invest funds of investing entities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 80 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in money market mutual funds described in Subsection (a) or mutual funds described in Subsection (b), either separately or collectively;

(2) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(3) invest any portion of bond proceeds, reserves and funds held for debt service,

in mutual funds described in Subsection (b); or

(4) invest funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

INVESTMENT POOLS, PUBLIC FUNDS INVESTMENT ACT, SECTION 2256.016:

(a) An entity may invest its funds or funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool must maintain a stable net asset value, must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days. An investment pool shall invest the funds it receives from entities in authorized investments permitted by the Public Funds Investment Act.

(b) To be eligible to receive funds from, and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the Investment Officer, or other authorized representative of the entity, an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

(1) the types of investments in which money is allowed to be invested;

(2) the maximum average weighted maturity allowed, based on the stated maturity date, of the pool;

(3) the maximum stated maturity date any investment security within the portfolio has;

(4) the objectives of the pool;

(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and

(12) the performance history of the pool, including yield, average weighted maturities, and expense ratios.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the Investment Officer or other authorized representative of the entity;

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested,

(B) the current average weighted maturity, based on the stated maturity date of the pool,

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year,

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(d) An entity, by contract, may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the Federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a $1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.005 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

INVESTMENT TRAINING

In accordance with Section 2256.007, an investment officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the Commissioners' Court or designated investment committee. The investment officer shall prepare a report in accordance with this Section and deliver the report to the Commissioners' Court no later than the 180th day after the last day of each regular session of the State Legislature. The training may not be less than 10 hours of instruction relating to the investment responsibilities under the Public Funds Investment Act.

CAPABILITIES OF INVESTMENT MANAGEMENT

The responsibility of investments is of the County Treasurer and the County Auditor, jointly.

County Treasurer: The County Treasurer shall obtain certification for no less than 10 hours in a two year period in Public Funds Investment training (PFIA), according to Section 2256.008, Title 10, of the Government Code and shall complete no less than 20 hours of continuing education a year pursuant to Section 83.003 of the Local Government Code. County Treasurer is compliant.

County Auditor: As required by the State Legislature, the County Auditor must obtain 20 hours of continuing education in the financial affairs of county government which includes 10 hours of continuing education in the investment of public funds in a two year period pursuant to Section 2256.008, Title 10 of the Government Code. County Auditor is compliant.

INVESTMENT RESPONSIBILITIES BY OFFICE

Treasurer's Office

The Treasurer is the chief custodian of county funds. The Treasurer receives funds due to Ector County, makes disbursements authorized by the Commissioners Court and approved by the Auditor, and keeps proper records of county finances. In the investment function, the Treasurer has the following responsibilities:

> Transact wire/ACH transfers for investment purposes once an investment is agreed upon by the Treasurer and Auditor. The Treasurer transfers funds to the safekeeping account to purchase the investment.
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> The Treasurer retains documentation of all investment transactions, including bond swaps. The Treasurer deposits principal and interest at maturity to either the County's depository bank, a Money Market Mutual Fund, or a Local Government Investment Pool as determined by the Treasurer and the Auditor.

The Treasurer accesses the depository's files daily to verify Ector County's account balances. The Treasurer adds any funds under the control of any other department, such as the County and District Clerks, to the county's funds to obtain the total county balance. The Treasurer compares the total county balance to the total collateral purchased by the depository bank. The collateral must be 102% of the Ector County total balances held with the depository. If the collateral is less than 102% of the total balances, the Treasurer must contact the depository bank to verify that the depository bank has increased the collateral to the required level. Documentation regarding the verification of the collateral position must be maintained for review by the Auditor and the outside audit firm.

Auditor's Office

The Auditor is the primary monitor of county transactions. The Auditor prepares the general ledger and makes all entries, and performs internal audits of the controls of county departments. In the investment function, the Auditor has the following responsibilities:

Develops an investment strategy to administer investments of Ector County. Prepares investment recommendations to the Treasurer, and keeps proper records of county investments. In determining a strategy, the following are considerations to be made:

(1) summarize the economic and market analysis;

(2) forecast available cash for investment;

(3) formulate strategies for asset mix, investment instruments, maturities, and target yields;

(4) report portfolio performance against the current investment strategy and evaluate reasons for variances; and

(5) revise the investment strategy based on changes determined from the above considerations, recommendations from the Commissioners Court, or changes in the law.

The Auditor reviews the composition of the current portfolio and determines whether the securities under consideration are within policy guidelines.

The Auditor provides information and supporting documentation for all investment transactions to the First Assistant County Auditor for entry in the General Ledger.

The Auditor analyzes prior period data and meets with Ector County Departments Heads to develop and amend cash flow projections. The Auditor uses cash flow projections to match assets and liabilities in addition to maximizing the return on investments.

The Auditor determines the amount of county funds available for investment. All funds that can be legally invested, and are not required for that day's controlled disbursement are considered funds available for investment.

The Auditor provides the Internal Auditor with a monthly report that states the investments at par value, the identifying cusip number, the premium or discount, and the interest purchased. The report includes monthly and year-to-date interest accruals and amortization of discount/accretion of premium. This report should reconcile to the investment accounts in the general ledger.

The Auditor allocates the interest revenue earned from investments proportionately to all funds that participate in the investment function. The entries to record the distribution of interest earnings are submitted to the First Assistant County Auditor to be recorded in the General Ledger.

The Auditor monitors the arbitrage responsibilities and provides the bond fund transaction information required by the arbitrage advisors.

Joint Responsibilities of the Treasurer and Auditor - Investment Officer

The Investment Officer must routinely perform market and economic analysis to forecast probable market conditions for the investment period by assembling and analyzing current and trend data to develop and plan investment strategy. This analysis uses information obtained from investment advisors, brokers, and investment industry publications.

The Investment Officer monitors the current and expected yield curves for interest rate movements. When interest rates are expected to decline, maturity ranges are extended with portfolio and policy constraints. When interest rates are expected to increase, maturity ranges are shortened. The Investment Officer monitors yield spreads between various government agency issues and Untied States notes and bonds to determine the best value.

The Investment Officer will prepare the quarterly and annual reports.

INVESTMENT PURCHASING PROCEDURES

Before any firm may sell Ector County an authorized investment, the investment officer must:

(a). Submit a copy of this investment policy to the firm. The designated representative of the firm seeking to sell an authorized investment must execute the "Certification" , see Exhibit II, which certifies that the designated representative has:

1. received and thoroughly reviewed the investment policy; and

2. acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between Ector County and the firm.

It is the policy of Ector County that the investment officer may not buy any securities from a firm who has not delivered the completed "Certification".

(b). Ector County requires competitive bidding for all individual security purchases except for those transactions with a Money Market Mutual Fund, Local Government Investment Pools, treasuries purchased through the Federal Reserve Treasury Direct Accounts, and for government securities purchased at issue through an approved broker/dealer at the auction price. The Investment Officer may rely not only on yield to select Money Market Mutual Funds and Local Government Investment Pools, but also on adherence to applicable SEC guidelines and other determined criteria.

At least three bidders must be contacted in all transactions involving individual securities. Competitive bidding for security swaps is also required. Bids may be solicited in any manner provided by law. All bids received must be documented and filed for auditing purposes.

Wire/ACH Transfer Procedures

In executing investment transactions, the Treasurer must use predetermined wire/ACH transfers, whenever possible, to restrict transfers of funds to pre-authorized accounts. For transfer of investment funds via wire/ACH to non-county accounts, the agreement with the depository bank must require the depository bank to call the Auditor for confirmation that this transfer is authorized prior to the transfer.

PERFORMANCE EVALUATION AND REPORTING

Levels of Evaluation

Evaluation is conducted at several levels. The Auditor and the Treasurer continually monitor and evaluate the investment performance, investment strategies, and cash flow forecasts. The Internal Audit function of the County will review the investment entries and reconcile the various monthly reports from the broker, bank, and financial institution to the general ledger. The Commissioners' Court will review and accept a quarterly investment report. Annually the outside audit firm will review and audit the activities regarding investments.

Quarterly Performance Analysis and Reporting

The Investment Officer provides quarterly summary reports that evaluate investment

performance based on investment policy objectives to the Commissioners Court. The reports compare the performance of Ector County's portfolio to appropriate bench-marks selected by the Investment Officer. The reports address compliance with the investment policy in diversification by type and maturity. Specifically, the report must:

(1) describe in detail the investment position on the date of the report;

(2) be prepared and signed by both Investment Officers;

(3) contain a summary statement, prepared in compliance with generally accepted accounting principles, of each fund group that states that the:

(a) beginning book and market value for the reporting period;

(b) additions and changes to the book and market value during the period;

(c) ending book and market value for the period; and,

(d) fully accrued interest for the period.

(4) state the book value and market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested;

(5) state the maturity date of each separately invested asset that has a maturity date;

(6) state the account or fund for which each individual investment was acquired; and

(7) state the compliance of the investment portfolio as it relates to:

(a) the investment strategy expressed in the investment policy; and

(b) relevant provisions of the Public Funds Investment Act.

Determination of the market value of an investment will be obtained from an independent third party. A broker/dealer who has sold an investment to Ector County is ineligible from determining the market value of that investment while the investment is a part of the County's portfolio.

Annual Performance Analysis and Reporting

The Investment Officer compiles the quarterly reports into an annual report at the end of each fiscal year and submits it to the Commissioners' Court and the outside auditors within the first quarter following the year end.

If investments during the fiscal year have been made in investments other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officer shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the Commissioners' Court by that auditor.

The Commissioners' Court shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with Ector County.

CHANGES TO THE INVESTMENT POLICIES AND PROCEDURES MANUAL

After adoption of the Ector County Investment Policies and Procedures Manual, the Commissioners' Court must approve any revisions before they become effective. The Ector County Investment Policies and Procedures Manual must be reviewed by the Commissioners' Court on an annual basis. Any revisions to the manual will be considered as part of the annual review of the Commissioners Court unless the Investment Officer recommends that considering a revision at the annual review may have a detrimental effect on the investments of Ector County, then the revision may be considered at any regularly scheduled Commissioners Court meeting.

EFFECTIVE DATE

The Ector County Investment Policies and Procedures Manual is effective upon adoption by the Commissioners' Court.

EXHIBITS AND APPENDICES

Exhibits listed and named below show the required forms and documents that must be used to comply with the requirements of this policy and procedure manual:

Exhibit I	Broker/Dealer Certification
Exhibit II	Broker/Dealer Questionnaire

Appendices listed and named below include information that does not form any part of these polices and procedures and are included for information and convenience of reference only:

Appendix A	The Public Funds Investment Act, revised 75th Legislature 1997
Appendix B	The Public Funds Collateral Act

EXHIBIT I

ECTOR COUNTY

BROKER/ DEALER CERTIFICATION

I hereby certify that I have personally read and understand the Ector County Investment Policies and Procedures Manual and master repurchase agreement conditions, and have implemented reasonable procedures and controls designed to fulfill those objectives and conditions.

Transactions between this firm and Ector County will be directed towards precluding investment transactions conducted between this firm and Ector County that are not authorized by Ector County's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

All the sales personnel of this firm dealing with Ector County's account have been informed and will be routinely informed of Ector County's investment horizons, limitations, strategy and risk constraints whenever we are so informed.

This firm pledges due diligence in informing Ector County of foreseeable risks associated with financial transactions connected to this firm.

_____

(Firm Name)

Qualified Representative

_____

(Signature)

_____

(Name)

_____

(Title)

_____

(Date)

EXHIBIT II

ECTOR COUNTY

BROKER/DEALER QUESTIONNAIRE

1. NAME OF FIRM _____

2. TEXAS ADDRESS _____

   _____

3. NATIONAL ADDRESS _____

   _____

4. TEXAS TELEPHONE NUMBER _____

   NATIONAL TELEPHONE NUMBER _____

5. QUALIFIED REPRESENTATIVE/MANAGER/PARTNER-IN-CHARGE

   NAME _____

   TITLE _____

   TELEPHONE NUMBER _____

6. SECONDARY REPRESENTATIVE/MANAGER/PARTNER-IN-CHARGE

   NAME _____

   TITLE _____

   TELEPHONE NUMBER _____

7. ARE YOU A PRIMARY DEALER IN UNITED STATES GOVERNMENT SECURITIES?

   YES [ ] NO [ ]

8. IF YES, HOW LONG HAS YOUR FIRM BEEN A PRIMARY DEALER?

_____ YEARS

9. WHAT WAS YOUR FIRM'S TRADING VOLUME IN UNITED STATES GOVERNMENT AND AGENCY SECURITIES FOR THE MOST RECENT FISCAL YEAR?

FIRM-WIDE $_____ NUMBER OF TRANSACTIONS _____

TEXAS OFFICE $_____ NUMBER OF TRANSACTIONS _____

10. WHICH INSTRUMENTS ARE OFFERED REGULARLY BY YOUR LOCAL DESK?

[ ] TREASURY BILLS
[ ] TREASURY NOTES/BONDS
[ ] AGENCIES - SPECIFY

_____

_____

_____

[ ] INSTRUMENTALITIES - SPECIFY

_____

_____

_____

[ ] BANKER'S ACCEPTANCES - DOMESTIC
[ ] BANKER'S ACCEPTANCES - FOREIGN
[ ] COMMERCIAL PAPER
[ ] BANK CERTIFICATES OF DEPOSIT
[ ] SAVINGS AND LOAN ASSOCIATION CERTIFICATES OF DEPOSIT
[ ] OTHER - SPECIFY

_____

_____

11. IDENTIFY ALL PERSONNEL WHO WILL BE TRADING WITH OR QUOTING SECURITIES TO THE ECTOR COUNTY INVESTMENT OFFICER. ATTACH RESUMES OF ALL THE PERSONS LISTED.

NAME TITLE TELEPHONE

_____

_____

_____

_____

12. WHICH OF THE ABOVE PERSONNEL HAVE READ OUR INVESTMENT POLICIES AND PROCEDURES?

_____

_____

_____

_____

13. PLEASE INDICATE WHICH AGENTS OF YOUR FIRM'S TEXAS OFFICES CURRENTLY ARE LICENSED, CERTIFIED, OR REGISTERED, AND BY WHOM.

AGENT LICENSED OR REGISTERED BY

_____

_____

14. PLEASE IDENTIFY YOUR PUBLIC SECTOR CLIENTS IN TEXAS.

ENTITY CONTACT PERSON TELEPHONE CLIENT SINCE

_____

_____

_____

15. HAVE ANY OF YOUR CLIENTS EVER INCURRED A LOSS ON A SECURITIES TRANSACTION BECAUSE OF MISUNDERSTANDINGS OR MISREPRESENTATIONS OF THE RISK INVOLVED? IF YES, PLEASE EXPLAIN.

_____

_____

_____

16. HAVE ANY OF YOUR PUBLIC SECTOR CLIENTS EVER NOTIFIED A STAFF MEMBER OF YOUR FIRM THAT THEY HAD INCURRED A LOSS EXCEEDING 10% OF THE ORIGINAL PURCHASE PRICE OF AN INDIVIDUAL SECURITY PURCHASED THROUGH YOUR FIRM BECAUSE OF A MISUNDERSTANDING BY YOUR STAFF?

_____

_____

_____

17. HAS YOUR FIRM OR ANY OF YOUR EMPLOYEES EVER BEEN INVESTIGATED BY A REGULATORY OR STATE AGENCY FOR ALLEGED IMPROPER, FRAUDULENT, DISREPUTABLE OR UNFAIR BUSINESS PRACTICES IN THE SALE OF SECURITIES OR MONEY MARKET INSTRUMENTS? IF YES, PLEASE EXPLAIN.

_____

_____

_____

18. HAS A PUBLIC SECTOR CLIENT EVER CLAIMED IN WRITING THAT YOUR FIRM WAS RESPONSIBLE FOR INVESTMENT LOSSES? IF YES, EXPLAIN.

_____

_____

_____

19. PLEASE PROVIDE SAMPLES OF RESEARCH REPORTS THAT YOUR FIRM PROVIDES TO PUBLIC SECTOR CLIENTS.

20. PLEASE DESCRIBE YOUR CUSTODY AND DELIVERY PROCESS. WHO AUDITS THIS FIDUCIARY RESPONSIBILITY?

_____

_____

_____

21. PLEASE PROVIDE CERTIFIED FINANCIAL STATEMENTS AND OTHER SUPPORTING DOCUMENTATION REGARDING YOUR FIRM'S CAPITALIZATION.

22. DESCRIBE THE CAPITAL LINE AND TRADING LIMITS THAT SUPPORT AND LIMIT THE OFFICE THAT WOULD CONDUCT BUSINESS WITH ECTOR COUNTY.

_____

_____

_____

23. (A) HAS YOUR FIRM CONSISTENTLY COMPLIED WITH THE FEDERAL RESERVE BANK'S OR THE SECURITIES EXCHANGE COMMISSION'S CAPITAL ADEQUACY GUIDELINES?

[ ] YES [ ] NO

(B) IS YOUR FIRM IN COMPLIANCE WITH THESE GUIDELINES ON THE DATE OF THIS QUESTIONNAIRE?

[ ] YES [ ] NO

(C) HAS YOUR CAPITAL POSITION EVER FALLEN SHORT OF THESE GUIDELINES?

[ ] YES [ ] NO

(D) DOES YOUR FIRM PRESENTLY EXCEED THE CAPITAL ADEQUACY GUIDELINES MEASURE OF RISK? IF SO, BY WHAT FACTOR?

_____

(E) PLEASE PROVIDE CERTIFIED DOCUMENTATION OF YOUR CAPITAL ADEQUACY AS MEASURED BY THE FEDERAL RESERVE BANK OR THE SECURITIES EXCHANGE COMMISSION STANDARDS.

24. DO YOU PARTICIPATE IN THE SIPC INSURANCE PROGRAM AND\OR MAINTAIN ADDITIONAL INSURANCE? IF NOT, PLEASE EXPLAIN.

_____

_____

25. WHAT PORTFOLIO INFORMATION DO YOU REQUIRE FROM YOUR CLIENTS?

_____

_____

26. WHAT REPORTS, TRANSACTIONS, CONFIRMATIONS, AND PAPER TRAIL WILL BE SUBMITTED TO ECTOR COUNTY?

_____

_____

27. PLEASE ENCLOSE A COMPLETE SCHEDULE OF FEES AND CHARGES FOR YOUR FIRM.

28. (A) HOW MANY AND WHAT PERCENTAGE OF YOUR TRANSACTIONS FAILED LAST MONTH?

_____

_____

(B) HOW MANY AND WHAT PERCENTAGE OF YOUR TRANSACTIONS FAILED LAST YEAR?

_____

_____

29. DESCRIBE THE PRECAUTIONS TAKEN BY YOUR FIRM TO PROTECT THE INTERESTS OF THE PUBLIC WHEN DEALING WITH GOVERNMENTAL AGENCIES AS INVESTORS.

_____

_____

EXHIBIT III

ECTOR COUNTY

SAMPLE MASTER REPURCHASE AGREEMENT

Dated as of _____

Between: _____

and: _____

1. Applicability

From time to time the parties hereto may enter into Transactions in which one party ("Seller") agrees to transfer to the other ("Buyer") securities or financial instruments ("Securities") against the transfer of funds by Buyer, with a simultaneous agreement by Buyer to transfer to Seller such Securities at a date certain or on demand, against the transfer of funds by Seller. Each such transaction shall be referred to herein as a "Transaction" and shall be governed by this Agreement, including any supplemental terms or conditions contained in Annex I hereto, unless otherwise agreed in writing.

The parties hereto agree that this agreement shall only be applicable to those transactions where Ector County, Texas shall act as Buyer and this Master Repurchase Agreement is not applicable to any transaction in which Ector County, Texas shall act as Seller.

2. Definitions

(a) "Act of Insolvency", with respect to any party, (i) the commencement by such party as debtor of any case or proceeding under any bankruptcy, insolvency, reorganization, liquidation, dissolution or similar law, or such party seeking the appointment of a receiver, trustee, custodian or similar official for such party or any substantial part of its property, or (ii) the commencement of any such case or proceeding against such party, or another seeking such appointment, or the filing against a party of an application for a protective decree under the provisions of the Securities Investor Protection Act of 1970, which (A) is consented to or not timely contested by such party, (B) results in the entry of an order for relief, such an appointment, the issuance of such protective decree or the entry of an order having a similar effect, or (C) is not dismissed within 15 days, (iii) the making by a party of a general assignment for the benefit of creditors, or (iv) the admission in writing by a party of such party's inability to pay such party's debts as they become due;

(b) "Additional Purchased Securities", securities provided by Seller to Buyer pursuant to Paragraph 4(a) hereof;

(C) "Buyer's Margin Amount", with respect to any transaction as of any date, the amount obtained by application of a percentage (which may be equal to the percentage that is agreed to as the Seller's Margin Amount under subparagraph (q) of this Paragraph), agreed to by Buyer and Seller prior to entering into the transaction, to the Repurchase Price for such transaction as of such date;

(d) "Confirmation", the meaning specified in Paragraph 3(b) hereof;

(e) "Income", with respect to any security at any time, any principal thereof then payable and all interest, dividends or other distributions thereon;

(f) "Margin Deficit", the meaning specified in Paragraph 4(a) hereof;

(g) "Margin Excess", the meaning specified in Paragraph 4(b) hereof;

(h) "Market Value", with respect to any securities as of any date, the price for such securities on such date obtained from a generally recognized source agreed to by the parties or the most recent closing bid quotation from such a source, plus accrued income to the extent not included therein (other than any Income credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) as of such date (unless contrary to market practice for such securities);

(I) "Price Differential", with respect to any transaction hereunder as of any date, the aggregate amount obtained by daily application of the pricing rate for such transaction to the purchase price for such transaction on a 360 day per year basis for the actual number of days during the period commencing on (and including) the date of determination (reduced by any amount of such price differential previously paid by Seller to Buyer with respect to such transaction);

(j) "Pricing Rate", the per annum percentage rate for determination of the price differential;

(k) "Prime Rate", the prime rate of U.S. money center commercial banks as published in The Wall Street Journal;

(l) "Purchase Date", the date on which purchased securities are transferred by Seller to Buyer;

(m) "Purchase Price", (i) on the purchase date, the price at which purchased securities are transferred by Seller to Buyer, and (ii) thereafter, such price increased by the amount of any cash transferred by Buyer to Seller pursuant to Paragraph 4(b) hereof and decreased by the amount of any cash transferred by Seller to Buyer pursuant to Paragraph 4(a) hereof or applied to reduce Seller's obligations under clause (ii) of Paragraph 5 hereof;

(n) "Purchased Securities", the securities transferred by Seller to Buyer in a transaction hereunder, and any securities substituted therefore in accordance with Paragraph 9 hereof. The term "Purchased Securities" with respect to any transaction at any time also shall include Additional purchased securities delivered pursuant to Paragraph 4(a) and shall exclude securities returned pursuant to Paragraph 4(b);

(o) "Repurchase Date", the date on which Seller is to repurchase the purchased securities from Buyer, including any date determined by application of the provisions of Paragraphs 3(c) or 11 hereof;

(p) "Repurchase Price", the price at which purchased securities are to be transferred from Buyer to Seller upon termination of a transaction, which will be determined in each case (including transactions terminable upon demand) as the sum of the purchase price and the price differential as of the date of such determination, increased by any amount determined by the application of the provisions of Paragraph 11 hereof;

(q) "Seller's Margin Amount", with respect to any transaction as of any date, the amount obtained by application of a percentage (which may be equal to the percentage that is agreed to as the buyer's margin Amount under subparagraph (c) of this Paragraph), agreed to by Buyer and Seller prior to entering into the transaction, to the repurchase price for such transaction as of such date.

3. Initiation; Confirmation; Termination

(a) An agreement to enter into a transaction may be made orally or in writing at the initiation of either Buyer or Seller. On the purchase date for the transaction, the purchased securities shall be transferred to Buyer, or its agent, against the transfer of the purchase price to an account of Seller.

(b) Upon agreeing to enter into a transaction hereunder, Buyer or Seller (or both), as shall be agreed, shall promptly deliver to the other party a written confirmation of each transaction (a "Confirmation"). The confirmation shall describe the purchased securities (including CUSIP number, if any), identify Buyer or Seller and set forth (i) the purchase date, (ii) the purchase price, (iii) the repurchase date, unless the transaction is to be terminable on demand, (iv) the pricing rate or repurchase price applicable to the transaction, and (v) any additional terms or conditions of the transaction not inconsistent with this agreement. The confirmation, together with this Agreement, shall constitute conclusive evidence of the terms agreed between Buyer and Seller with respect to the transaction to which the confirmation relates, unless with respect to the confirmation and this agreement, this agreement shall prevail.

(c) In the case of transactions terminable upon demand, such demand shall be made by Buyer or Seller, no later than such time as is customary in accordance with market practice, by telephone or otherwise on or prior to the business day on which such termination will be effective. On the

date specified in such demand, or on the date fixed for termination in the case of transactions having a fixed term, termination of the transaction will be effected by transfer to Seller, or its agent, of the purchased securities and any income in respect thereof received by Buyer (and not previously credited or transferred to, or applied to the obligations of, Seller pursuant to paragraph 5 hereof) against the transfer of the repurchase price to an account of Buyer.

4. Margin Maintenance

(a) If at the time the aggregate market value of all purchased securities subject to all transactions in which a particular party hereto is acting as Buyer is less than the aggregate buyer's margin amount for all such transactions (a "Margin Deficit"), then Buyer may by notice to Seller require Seller in such transactions, at Seller's option, to transfer to Buyer cash or additional securities reasonably acceptable to Buyer ("Additional Purchased Securities"), so that the cash and aggregate market value of the purchased securities, including any such additional purchased securities, will thereupon equal or exceed such aggregate buyer's margin amount (decreased by the amount of any margin deficit as of such date arising from any transactions in which such Buyer is acting as Seller).

(b) If at any time the aggregate market value of all purchased securities subject to all transactions in which a particular party hereto is acting as Seller exceeds the aggregate seller's margin amount for all such transactions at such time (a "Margin Excess"), then Seller may by notice to Buyer require Buyer in such transactions, at Buyer's option, to transfer cash or purchased securities to Seller, so that the aggregate market value of the purchased securities, after deduction of any such cash or any purchased securities so transferred, will thereupon not exceed such aggregate Seller's margin amount (increased by the amount of any margin excess as of such date arising from any transactions in which such Seller is acting as Buyer).

(c) Any cash transferred pursuant to this Paragraph shall be attributed to such transactions as shall be agreed upon by Buyer and Seller.

(d) Seller and Buyer may agree, with respect to any or all transactions hereunder, that the respective rights of Buyer or seller (or both) under subparagraphs (a) and (b) of this Paragraph may be exercised only where a margin deficit or margin excess exceeds a specified dollar amount or a specified percentage of the repurchase prices for such transactions (which amount or percentage shall be agreed to by Buyer and Seller prior to entering into any such transactions).

(e) Seller and Buyer may agree, with respect to any or all transactions hereunder, that the respective rights of Buyer and Seller under subparagraphs (a) and (b) of this Paragraph to require the elimination of a margin deficit or a margin excess, as the case may be, may be exercised whenever such a margin deficit or margin excess exists with respect to any single transaction hereunder (calculated without regard to any other transaction outstanding under this agreement).

5. Income Payments

Where a particular transaction's term extends over an income payment date on the securities subject to that transaction, Buyer shall, as the parties may agree with respect to such transaction (or, in the absence of any agreement, as Buyer shall reasonably determine in its discretion), on the date such income is payable either (i) transfer to or credit to the account of Seller an amount equal to such income payment or payments to reduce the amount to be transferred to Buyer by Seller upon termination of the transaction. Buyer shall not be obligated to take any action pursuant to the preceding sentence to the extent that such action would result in the creation of a margin deficit, unless prior thereto or simultaneously therewith, Seller transfers to Buyer cash or additional purchased securities sufficient to eliminate such margin deficit.

6. Buy-Sell Interpretation

Because the Buyer is a governmental entity, both parties agree that all transactions conducted pursuant to this agreement must be interpreted as purchases and sales of securities.

7. Payment and Transfer

Unless otherwise mutually agreed, all transfer of funds hereunder shall be in immediately available funds. All transactions shall be accomplished through "Delivery vs. Payment;" unless the parties otherwise agree in writing prior to the transfer of funds. As used herein with respect to securities, "transfer" is intended to have the same meaning as when used in Section 8-313 of the New York Uniform Commercial Code.

8. Segregation of Purchased Securities

All purchased securities in the possession of Seller shall be segregated from other securities in its possession and shall be identified as subject to this agreement. Segregation may be accomplished by appropriate identification on the books and records of the holder, including a financial intermediary or a clearing corporation. Title to all purchased securities shall pass to Buyer and, unless otherwise agreed by Buyer from engaging in repurchase transactions with the purchased securities, or otherwise pledging or hypothecating the purchased securities, but no such transaction shall relieve Buyer of its obligations to transfer purchased securities to Seller pursuant to Paragraphs 3, 4, or 11 hereof, or of Buyer's obligation to credit or pay income to, or apply income to the obligations of, Seller pursuant to Paragraph 5 hereof.

9. Substitution

Seller may, subject to agreement with and acceptance in writing by Buyer, substitute other securities for any purchased securities. Seller shall absorb all costs, including the current established rates for substitution by Ector County to cover its expenses associated with such transfer. The duration (or maturity) of securities offered as substitutes may not exceed the duration (or maturity) of the original purchased securities.

10. Representations

Each of Buyer and Seller represents and warrants to the other that (i) it is duly authorized to execute and deliver this agreement, to enter into the transactions contemplated hereunder and to perform its obligations hereunder and has taken all necessary action to authorize such execution, delivery and performance, (ii) it will engage in such transactions as principal (or, if agreed in writing in advance of any transaction by the other party hereto, as agent for a disclosed principal), (iii) the person signing this agreement on its behalf is duly authorized to do so on its behalf (or on behalf of any such disclosed principal), (iv) it has obtained all authorizations of any governmental body required in connection with this agreement and the transactions hereunder and such authorizations are in full force and effect and (v) the execution, delivery and performance of this agreement and the transactions hereunder will not violate any law, ordinance, charter, by-law or rule applicable to it or any agreement by which it is bound or by which any of its assets are affected. On the Purchase Date for any Transaction, Buyer and Seller shall each be deemed to repeat all the foregoing representations made by it.

11. Events of Default

In the event that (i) Seller fails to repurchase or Buyer fails to transfer Purchased Securities upon the applicable Repurchase Date, (ii) Seller or Buyer fails, after one business day's notice, to comply with Paragraph 4 hereof, (iii) Buyer fails to comply with Paragraph 5 hereof, (iv) an Act of Insolvency occurs with respect to Seller or Buyer, (v) any representation made by Seller or Buyer shall have been incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated, or (vi) Seller or Buyer shall admit to the other its inability to, or its intention not to, perform any of its obligations hereunder (each an "Event of Default"):

(a) At the option of the nondefaulting party, exercised by written notice to the defaulting party (which option shall be deemed to have been exercised, even if no notice is given, immediately upon the occurrence of an Act of Insolvency), the Repurchase Date for each Transaction hereunder shall be deemed immediately to occur.

(b) In all transactions in which the defaulting party is acting as Seller, if the nondefaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this paragraph, (i) the defaulting party's obligations hereunder to repurchase all purchased securities in such transactions shall thereupon become immediately due and payable, (ii) to the extent permitted by applicable law, the repurchase price with respect to each transaction shall be increase by the aggregate amount obtained by daily application of (x) the greater of the pricing rate to (y) the repurchase price for such transactions as of the repurchase date as determined pursuant to subparagraph (a) of this paragraph (decreased as of any day by (A) any amounts retained by the nondefaulting party with respect to such repurchase price pursuant to clause (iii) of this subparagraph, (B) any proceeds from the sale of purchased securities pursuant to subparagraph (d)(i) of this paragraph, and (c) any amounts credited to the account of the defaulting party pursuant to subparagraph (e) of the paragraph) on a 360 day per year basis for the actual number of days during the period from the date of the event of default giving rise to such option to the date of payment of the repurchase price as so increased, (iii) all income paid

after such exercise or deemed exercise shall be retained by the nondefaulting party and applied to the aggregate unpaid repurchase prices owed by the defaulting party, and (iv) the defaulting party shall immediately deliver to the nondefaulting party any purchased securities subject to such transactions then in the defaulting party's possession.

(c) In all transactions in which the defaulting party is acting as Buyer, upon tender by the nondefaulting party of payment of the aggregate repurchase prices for all such transactions, the defaulting party's right, title and interest in all purchased securities subject to such transaction shall be deemed transferred to the nondefaulting party, and the defaulting party shall deliver all such purchased securities to the nondefaulting party.

(d) After one business day's notice to the defaulting party (which notice need not be given if an act of insolvency shall have occurred, and which may be the notice given under subparagraph (a) of this Paragraph or the notice referred to in clause (ii) of the first sentence of this Paragraph), the nondefaulting party may:

(i) as to transactions in which the defaulting party is acting as Seller, (A) immediately sell, in a recognized market at such price or prices as the nondefaulting party may reasonably deem satisfactory, any or all purchased securities subject to such transactions and apply the proceeds thereof to the aggregate unpaid repurchase prices and any other amounts owing by the defaulting party hereunder or (B) in its sole discretion elect, in lieu of selling all or a portion of such purchased securities, to give the defaulting party credit for such purchased securities in an amount equal to the price thereof on such date, obtained from a generally recognized source, against the aggregate unpaid repurchase prices and any other amounts owing by the defaulting party hereunder; and

(ii) as to transactions in which the defaulting party is acting as Buyer, (A) purchase securities ("Replacement Securities") of the same class and amount as any purchased securities that are not delivered by the defaulting party to the nondefaulting party as required hereunder or (B) in its sole discretion elect, in lieu of purchasing replacement securities, to be deemed to have purchased replacement securities at the price therefor on such date, obtained from a generally recognized source or the most recent closing bid quotation from such a source.

(e) As to transactions in which the defaulting party is acting as Buyer, the defaulting party shall be liable to the nondefaulting party (i) with respect to purchased securities (other than additional purchased securities), for any excess of the price paid (or deemed paid) by the nondefaulting party for replacement securities therefor over the repurchase price for such purchased securities and (ii) with respect to additional purchased securities for the price paid (or deemed paid) by the nondefaulting party for the replacement securities therefor. In addition, the defaulting party shall be liable to the nondefaulting party for interest on such remaining liability with respect to each such purchase (or deemed purchase) of replacement securities from the date of such purchase (or deemed purchase) until paid in full by Buyer. Such interest shall be at a rate equal to the greater of the pricing rate for such transaction or the prime rate.

(f) For purposes of this Paragraph 11, the repurchase price for each transaction hereunder in respect of which the defaulting party is acting as Buyer shall not increase above the amount of such repurchase price for such transaction determined as of the date of the exercise or deemed exercise by the nondefaulting party of its option under subparagraph (a) of this paragraph.

(g) The defaulting party shall be liable to the nondefaulting party for the amount of all reasonable legal or other expenses incurred by the nondefaulting party in connection with or as a consequent of an event of default, together with interest thereon at a rate equal to the greater of the pricing rate for the relevant transaction or the prime rate.

(h) The nondefaulting party shall have, in addition to its rights hereunder, any rights otherwise available to it under any other agreement or applicable law.

12. Single Agreement

Buyer and Seller acknowledge that, and have entered hereunto and will enter into each transaction hereunder in consideration of and in reliance upon the fact that, all transactions hereunder constitute a single business and contractual relationship and have been made in consideration of each other. Accordingly, each of Buyer and Seller agrees (i) to perform all of its obligations in respect of each transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect of all transactions hereunder, (ii) that each of them shall be entitled to set off claims and apply property held by them in respect of any transaction against obligations owing to them in respect of any other transactions hereunder and (iii) that payments, deliveries and other transfers made by either of them in respect of any transaction shall be deemed to have been made in consideration of payments, deliveries and other transactions hereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted.

13. Notice and Other Communications

Unless another address is specified in writing by the respective party to whom any notice or other communication is to be given hereunder, all such notices or communications shall be in writing or confirmed in writing and delivered at the respective addresses set forth in Annex II attached thereto.

14. Entire Agreement's Severability

This agreement shall supersede any existing agreements between the parties containing general terms and conditions for repurchase transactions. Each provision and agreement herein shall be treated as separate and independent from any other provision or agreement herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

15. Non-assignability; Termination

The rights and obligations of the parties under this agreement and under any transaction shall not be assigned by either party without the prior written consent of the other party. Subject to the

foregoing, this agreement and any transactions shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. This agreement may be canceled by either party upon giving written notice to the other, except that this agreement shall, notwithstanding such notice, remain applicable to any transactions then outstanding.

16. Governing Law

This agreement and all transactions pursuant to this agreement shall be governed by the laws of the State of Texas. All purchased securities shall be lawful for purposes of governmental investments in the State of Texas.

17. Seller's Financial Condition

(a) Seller shall maintain continuous compliance with applicable federal regulatory standards and guidelines regarding capital adequacy and net capitalization.

(b) Any transaction undertaken pursuant to this agreement shall proceed only if Seller furnishes or has furnished to Buyer its most recent available audited statement of financial condition and its most recent subsequent unaudited statements of financial condition and such other information as shall be requested by Buyer in writing.

(c) By entering into a transaction pursuant to this agreement, Seller shall be deemed to represent Buyer that since the date of Seller's latest financial statements, there has been no material adverse change in Seller's financial condition which Seller has not disclosed in writing to Buyer, and Seller further agrees to provide Buyer with future audited and unaudited statements of financial condition as they are issued.

18. Margin Ratios

For purposes of calculating the margin amount, the following ratios shall be applied to the market value of purchased securities, depending upon their maturity:

Maturity of	U.S. Treasury	U.S. Agency Discount and Coupon
under 1 year	101%	101%
1-5 years	102%	102%
over 5 years	103%	104%

U.S. Agencies are securities issued by FNMA, FFGB, FHLB; quoted daily in the financial press.

Zero-coupon instruments with maturities exceeding seven years are not acceptable due to excessive volatility. In determining market value, dealers' bid prices shall be used and accrued interest shall be included.

19. Margin Maintenance

For term repurchase agreements, a custodian or the Seller shall automatically maintain the required margin amount, or the required margin ratios shall be increased as mutually agreed to compensate for possible market price losses.

20. Purchased Securities

All purchased securities must be marketable instruments for which price information is available on regular business days in financial newspapers or national circulation or other media suitable to the Buyer. In the event that such price information is not available, Buyer may require the Seller to deliver different securities, or may increase the margin ratio to 105 percent, at Buyer's option.

21. No Waivers, Etc.

No express or implied waiver of any event of default by either party shall constitute a waiver of any other event of default and no exercise of any remedy hereunder by any party shall constitute a waiver of its right to exercise any other remedy hereunder. No modification or waiver of any provision of this agreement and no consent by any party to a departure here from shall be effective unless and until such shall be in writing and duly executed by both of the parties hereto. Without limitation on any of the foregoing, the failure to give a notice pursuant to subparagraphs 4(1) or 4(b) hereof will not constitute a waiver of any right to do so at a later date.

22. Use of Employee Plan Assets

(a) If assets of an employee benefit plan subject to any provision of the Employee Retirement Income Security Act of 1974 ("ERISA") are intended to be used by either party hereto (the "Plan Party") in a transaction, the plan party shall so notify the other party prior to the transaction. The plan party shall represent in writing to the other party that the transaction does not constitute a prohibited transaction under ERISA or is otherwise exempt therefrom, and the other party may proceed in reliance thereon but shall not be required so to proceed.

(b) Subject to the last sentence of subparagraph (a) of this paragraph, any such transaction shall proceed only if Seller furnishes or has furnished to Buyer its most recent available audited statement of its financial condition and its most recent subsequent unaudited statement of its financial condition.

(c) By entering into a transaction pursuant to this paragraph, Seller shall be deemed (i) to represent to Buyer that since the date of seller's latest such financial statements, there has been no material adverse change in Seller's financial condition which Seller has not disclosed to Buyer, and (ii) to agree to provide Buyer with future audited and unaudited statements of its financial condition as they are issued, so long as it is a Seller in any outstanding transaction involving a plan party.

23. Authorized Personnel

Only those persons identified below may execute transactions pursuant to this agreement.

Seller	Buyer
_____	_____
_____	_____
_____	_____

24. Intent

(a) The parties recognize that each transaction is a "repurchase agreement" as that term is defined in Section 101(39) of Title 11 of the United States Code, as amended (except insofar as the type of securities subject to such transaction or the term of such transaction would render such definition inapplicable), and a "securities contract" as that term is defined in Section 741(7) of Title 11 of the United States Code, as amended.

(b) It is understood that either party's right to liquidate securities delivered to it in connection with transactions hereunder or to exercise any other remedies pursuant to Paragraph 11 hereof, is a contractual right to liquidate such transaction as described in Sections 555 and 559 of Title 11 of the United States Code, as amended.

Executed this _____ day of _____, ____.

ECTOR COUNTY (Buyer)	[Name of Party] (Seller)
By:_____	_____
_____	_____
Printed Name	Printed Name
Title: _____	Title: _____
Date: _____	Date: _____

APPENDIX A

GOVERNMENT CODE, CHAPTER 2256

THE PUBLIC FUNDS INVESTMENT ACT

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GOVERNMENT CODE, CHAPTER 2256

THE PUBLIC FUNDS INVESTMENT ACT

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2256. PUBLIC FUNDS INVESTMENT

SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. SHORT TITLE. This chapter may be cited as the Public Funds Investment Act.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.002. DEFINITIONS. In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:

(A) preservation and safety of principal;

(B) liquidity; and

(C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the

State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 1, eff. Sept. 1, 1999.

Sec. 2256.003. AUTHORITY TO INVEST FUNDS; ENTITIES SUBJECT TO THIS CHAPTER. (a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

(1) a local government;

(2) a state agency;

(3) a nonprofit corporation acting on behalf of a local government or a state agency; or

(4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 2, eff. Sept. 1, 1999.

Sec. 2256.004. APPLICABILITY. (a) This subchapter does not apply to:

(1) a public retirement system as defined by Section 802.001;

(2) state funds invested as authorized by Section 404.024;

(3) an institution of higher education having total endowments of at least $150 million in book value on September 1, 2017;

(4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;

(5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or

(6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1454, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 1, eff. June 14, 2017.

Sec. 2256.005. INVESTMENT POLICIES; INVESTMENT STRATEGIES; INVESTMENT OFFICER. (a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

(1) be written;

(2) primarily emphasize safety of principal and liquidity;

(3) address investment diversification, yield, and maturity and the quality and capability of investment management; and

(4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds;

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

(c) The investment policies may provide that bids for certificates of deposit be solicited:

(1) orally;

(2) in writing;

(3) electronically; or

(4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

(1) understanding of the suitability of the investment to the financial requirements of the entity;

(2) preservation and safety of principal;

(3) liquidity;

(4) marketability of the investment if the need arises to liquidate the investment before maturity;

(5) diversification of the investment portfolio; and

(6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the

investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 685, Sec. 1

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 1421, Sec. 3

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the

fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any business organization offering to engage in an investment transaction with an investing entity. For purposes of this subsection and Subsection (l), "business organization" means an investment pool or investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity's funds. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization:

(A) is dependent on an analysis of the makeup of the entity's entire portfolio;

(B) requires an interpretation of subjective investment standards; or

(C) relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

(l) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section 321.020. Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section 321.013, the state auditor may review information provided under this section. If review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section 404.024.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 41, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 1, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 149 (H.B. 1701), Sec. 1, eff. September 1, 2017.

Sec. 2256.006. STANDARD OF CARE. (a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

(1) preservation and safety of principal;

(2) liquidity; and

(3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

(1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and

(2) whether the investment decision was consistent with the written investment policy of the entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.007. INVESTMENT TRAINING; STATE AGENCY BOARD MEMBERS AND OFFICERS. (a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg.,

ch. 1421, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 2, eff. June 17, 2011.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS. (a) Except as provided by Subsections (a-1), (b), (b-1), (e), and (f), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(a-1) Except as provided by Subsection (g), the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a school district or a municipality, in addition to the requirements of Subsection (a)(1), shall attend an investment training session not less than once in a two-year period that begins on the first day of the school district's or municipality's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than eight hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the school district or municipality, or by a designated investment committee advising the investment officer as provided for in the investment policy of the school district or municipality.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and

has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(b-1) A housing authority created under Chapter 392, Local Government Code, may satisfy the training requirement provided by Subsection (a)(2) by requiring the following person to attend, in each two-year period that begins on the first day of that housing authority's fiscal year and consists of the two consecutive fiscal years after that date, at least five hours of appropriate instruction:

(1) the treasurer, or the chief financial officer if the treasurer is not the chief financial officer, or the investment officer; or

(2) if the authority does not have an officer described by Subdivision (1), another officer of the authority.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

(f) Subsection (a)(2) does not apply to an officer of a municipality or housing authority if the municipality or housing authority:

(1) does not invest municipal or housing authority funds, as applicable; or

(2) only deposits those funds in:

(A) interest-bearing deposit accounts; or

(B) certificates of deposit as authorized by Section 2256.010.

(g) Subsection (a-1) does not apply to the treasurer, chief financial officer, or investment officer of a school district if:

(1) the district:

(A) does not invest district funds; or

(B) only deposits those funds in:

(i) interest-bearing deposit accounts; or

(ii) certificates of deposit as authorized by Section 2256.010; and

(2) the treasurer, chief financial officer, or investment officer annually submits to the agency a sworn affidavit identifying the applicable criteria under Subdivision (1) that apply to the district.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 4, eff. May 14, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 3, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 222 (H.B. 1148), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1248 (H.B. 870), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 8.015, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1000 (H.B. 1238), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1000 (H.B. 1238), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 477 (H.B. 293), Sec. 1, eff. June 7, 2019.

Sec. 2256.009. AUTHORIZED INVESTMENTS: OBLIGATIONS OF, OR GUARANTEED BY GOVERNMENTAL ENTITIES. (a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;

(6) bonds issued, assumed, or guaranteed by the State of Israel;

(7) interest-bearing banking deposits that are guaranteed or insured by:

(A) the Federal Deposit Insurance Corporation or its successor; or

(B) the National Credit Union Share Insurance Fund or its successor; and

(8) interest-bearing banking deposits other than those described by Subdivision (7) if:

(A) the funds invested in the banking deposits are invested through:

(i) a broker with a main office or branch office in this state that the investing entity selects from a list the governing body or designated investment committee of the entity adopts as required by Section 2256.025; or

(ii) a depository institution with a main office or branch office in this state that the investing entity selects;

(B) the broker or depository institution selected as described by Paragraph (A) arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;

(C) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and

(D) the investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account:

(i) the depository institution selected as described by Paragraph (A);

(ii) an entity described by Section 2257.041(d); or

(iii) a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 558, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 4, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 2, eff. June 14, 2017.

Acts 2017, 85th Leg., R.S., Ch. 863 (H.B. 2647), Sec. 1, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 874 (H.B. 2928), Sec. 1, eff. September 1, 2017.

Sec. 2256.010. AUTHORIZED INVESTMENTS: CERTIFICATES OF DEPOSIT AND SHARE CERTIFICATES. (a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or

(3) secured in accordance with Chapter 2257 or in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Amended by Acts 1995, 74th Leg., ch. 32, Sec. 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 128 (H.B. 256), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 5, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 874 (H.B. 2928), Sec. 2, eff. September 1, 2017.

Sec. 2256.011. AUTHORIZED INVESTMENTS: REPURCHASE AGREEMENTS. (a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204;

(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, Section 2256.0204, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

(e) Section 1371.059(c) applies to the execution of a repurchase agreement by an investing entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 6, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 3, eff. June 14, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 1, eff. September 1, 2019.

Sec. 2256.0115. AUTHORIZED INVESTMENTS: SECURITIES LENDING PROGRAM. (a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:

(A) pledged securities described by Section 2256.009;

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

(i) 2256.009;

(ii) 2256.013;

(iii) 2256.014; or

(iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

(A) pledged to the investing entity;

(B) held in the investing entity's name; and

(C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

(A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or

(B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

Added by Acts 2003, 78th Leg., ch. 1227, Sec. 1, eff. Sept. 1, 2003.

Sec. 2256.012. AUTHORIZED INVESTMENTS: BANKER'S ACCEPTANCES. A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER. Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 365 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 2, eff. September 1, 2019.

Sec. 2256.014. AUTHORIZED INVESTMENTS: MUTUAL FUNDS.

(a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.); and

(3) complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;

(2) has an average weighted maturity of less than two years; and

(3) either:

(A) has a duration of one year or more and is invested exclusively in obligations approved by this subchapter; or

(B) has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

(3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 4, eff. June 14, 2017.

Sec. 2256.015. AUTHORIZED INVESTMENTS: GUARANTEED INVESTMENT CONTRACTS. (a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and

(3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

(1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;

(2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

(3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

(4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

(5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

(d) Section 1371.059(c) applies to the execution of a guaranteed investment contract by an investing entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 9, 10, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 5, eff. June 14, 2017.

Sec. 2256.016. AUTHORIZED INVESTMENTS: INVESTMENT POOLS. (a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

(1) the types of investments in which money is allowed to be invested;

(2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;

(3) the maximum stated maturity date any investment security within the portfolio has;

(4) the objectives of the pool;

(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool;

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and

(13) the pool's policy regarding holding deposits in cash.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, for purposes of an investment pool for which a $1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter:

(1) a public funds investment pool that uses amortized cost or fair value accounting must mark its portfolio to market daily; and

(2) if the investment pool uses amortized cost:

(A) the investment pool must, to the extent reasonably possible, stabilize at a $1.00 net asset value, when rounded and expressed

to two decimal places;

(B) the governing body of the investment pool must, if the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, take action as the body determines necessary to eliminate or reduce to the extent reasonably practicable any dilution or unfair result to existing participants, including a sale of portfolio holdings to attempt to maintain the ratio between 0.995 and 1.005; and

(C) the investment pool must, in addition to the requirements of its investment policy and any other forms of reporting, report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 9, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 7, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 6, eff. June 14, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 3, eff. September 1, 2019.

Sec. 2256.017. EXISTING INVESTMENTS. Except as provided by Chapter 2270, an entity is not required to liquidate investments that were authorized investments at the time of purchase.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 10, eff. Sept. 1, 1997.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 2, eff. May 23, 2017.

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 11, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 8, eff. June 17, 2011.

Sec. 2256.020. AUTHORIZED INVESTMENTS: INSTITUTIONS OF HIGHER EDUCATION. In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a

holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.0201. AUTHORIZED INVESTMENTS; MUNICIPAL UTILITY. (a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 48, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 7 (S.B. 495), Sec. 1, eff. April 13, 2007.

Sec. 2256.0202. AUTHORIZED INVESTMENTS: MUNICIPAL FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for

oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 1371 (S.B. 894), Sec. 1, eff. September 1, 2009.

Sec. 2256.0203. AUTHORIZED INVESTMENTS: PORTS AND NAVIGATION DISTRICTS. (a) In this section, "district" means a navigation district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(b) In addition to the authorized investments permitted by this subchapter, a port or district may purchase, sell, and invest its funds and funds under its control in negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency.

Added by Acts 2011, 82nd Leg., R.S., Ch. 804 (H.B. 2346), Sec. 1, eff. September 1, 2011.

Sec. 2256.0204. AUTHORIZED INVESTMENTS: INDEPENDENT SCHOOL DISTRICTS. (a) In this section, "corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that:

(1) on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or

(2) is an unsecured debt obligation.

(b) This section applies only to an independent school district that qualifies as an issuer as defined by Section 1371.001.

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally

recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(d) An independent school district subject to this section is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

(2) invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

(e) An independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds if the governing body of the district:

(1) amends its investment policy to authorize corporate bonds as an eligible investment;

(2) adopts procedures to provide for:

(A) monitoring rating changes in corporate bonds acquired with public funds; and

(B) liquidating the investment in corporate bonds; and

(3) identifies the funds eligible to be invested in corporate bonds.

(f) The investment officer of an independent school district, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

(1) issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or

(2) changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 5, eff. September 1, 2019.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1347 (S.B. 1543), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 5, eff. September 1, 2019.

Sec. 2256.0205. AUTHORIZED INVESTMENTS; DECOMMISSIONING TRUST. (a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

Added by Acts 2005, 79th Leg., Ch. 121 (S.B. 1464), Sec. 1, eff. September 1, 2005.

Sec. 2256.0206. AUTHORIZED INVESTMENTS: HEDGING TRANSACTIONS. (a) In this section:

(1) "Eligible entity" means a political subdivision that has:

(A) a principal amount of at least $250 million in:

(i) outstanding long-term indebtedness;

(ii) long-term indebtedness proposed to be issued; or

(iii) a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and

(B) outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

(2) "Eligible project" has the meaning assigned by Section 1371.001.

(3) "Hedging" means acting to protect against economic loss due to price fluctuation of a commodity or related investment by entering into an offsetting position or using a financial agreement or producer price agreement in a correlated security, index, or other commodity.

(b) This section prevails to the extent of any conflict between this section and:

(1) another law; or

(2) an eligible entity's municipal charter, if applicable.

(c) The governing body of an eligible entity shall establish the entity's policy regarding hedging transactions.

(d) An eligible entity may enter into hedging transactions, including hedging contracts, and related security, credit, and insurance agreements in connection with commodities used by an eligible entity in the entity's general operations, with the acquisition or construction of a capital project, or with an eligible project. A hedging transaction must comply with the regulations of the federal Commodity Futures Trading Commission and the federal Securities and Exchange Commission.

(e) An eligible entity may pledge as security for and to the payment of a hedging contract or a security, credit, or insurance agreement any general or special revenues or funds the entity is authorized by law to pledge to the payment of any other obligation.

(f) Section 1371.059(c) applies to the execution by an eligible entity of a hedging contract and any related security, credit, or insurance agreement.

(g) An eligible entity may credit any amount the entity receives under a hedging contract against expenses associated with a commodity purchase.

(h) An eligible entity's cost of or payment under a hedging contract or agreement may be considered:

(1) an operation and maintenance expense of the eligible entity;

(2) an acquisition expense of the eligible entity;

(3) a project cost of an eligible project; or

(4) a construction expense of the eligible entity.

Added by Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 7, eff. June 14, 2017.

Sec. 2256.0207. AUTHORIZED INVESTMENTS: PUBLIC JUNIOR COLLEGE DISTRICT FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, the governing board of a public junior college district may invest funds received by the district from a lease or contract for the management and development of land owned by the district and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by the governing board of a public junior college district under this section shall be segregated and accounted for separately from other funds of the district.

Added by Acts 2017, 85th Leg., R.S., Ch. 344 (H.B. 1472), Sec. 1, eff. September 1, 2017.
Redesignated from Government Code, Section 2256.0206 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(34), eff. September 1, 2019.

Sec. 2256.0208. LOCAL GOVERNMENT INVESTMENT OF BOND PROCEEDS AND PLEDGED REVENUE. (a) In this section, "pledged revenue" means money pledged to the payment of or as security for:

(1) bonds or other indebtedness issued by a local government;

(2) obligations under a lease, installment sale, or other agreement of a local government; or

(3) certificates of participation in a debt or obligation described by Subdivision (1) or (2).

(b) The investment officer of a local government may invest bond proceeds or pledged revenue only to the extent permitted by this chapter, in accordance with:

(1) statutory provisions governing the debt issuance or the agreement, as applicable; and

(2) the local government's investment policy regarding the debt issuance or the agreement, as applicable.

Added by Acts 2019, 86th Leg., R.S., Ch. 1133 (H.B. 2706), Sec. 4, eff. September 1, 2019.

Sec. 2256.021. EFFECT OF LOSS OF REQUIRED RATING. An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.022. EXPANSION OF INVESTMENT AUTHORITY. Expansion of investment authority granted by this chapter shall require a risk assessment by the state auditor or performed at the direction of the state

auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 2003, 78th Leg., ch. 785, Sec. 42, eff. Sept. 1, 2003.

Sec. 2256.023. INTERNAL MANAGEMENT REPORTS. (a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ending market value for the period; and

(C) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be

formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 12, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1004 (H.B. 2226), Sec. 9, eff. June 17, 2011.

Sec. 2256.024. SUBCHAPTER CUMULATIVE. (a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b) and Section 2256.017, this subchapter does not:

(1) prohibit an investment specifically authorized by other law; or

(2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009(b) are authorized investments with respect to the housing bond programs operated by:

(1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;

(2) an entity created under Chapter 392, Local Government Code; or

(3) an entity created under Chapter 394, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 96 (S.B. 253), Sec. 3, eff. May 23, 2017.

Sec. 2256.025. SELECTION OF AUTHORIZED BROKERS. The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

Sec. 2256.026. STATUTORY COMPLIANCE. All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 2256.051. ELECTRONIC FUNDS TRANSFER. Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.052. PRIVATE AUDITOR. Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.053. PAYMENT FOR SECURITIES PURCHASED BY STATE. The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.67, eff. Sept. 1, 1997.

Sec. 2256.054. DELIVERY OF SECURITIES PURCHASED BY STATE. A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made

under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.68, eff. Sept. 1, 1997.

Sec. 2256.055. DEPOSIT OF SECURITIES PURCHASED BY STATE. At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.69, eff. Sept. 1, 1997.

APPENDIX B

GOVERNMENT CODE, CHAPTER 2257

THE PUBLIC FUNDS COLLATERAL ACT

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2257. COLLATERAL FOR PUBLIC FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2257.001. SHORT TITLE. This chapter may be cited as the Public Funds Collateral Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.002. DEFINITIONS. In this chapter:

(1) "Bank holding company" has the meaning assigned by Section 31.002(a), Finance Code.

(2) "Control" has the meaning assigned by Section 31.002(a), Finance Code.

(3) "Deposit of public funds" means public funds of a public entity that:

(A) the comptroller does not manage under Chapter 404; and

(B) are held as a demand or time deposit by a depository institution expressly authorized by law to accept a public entity's demand or time deposit.

(4) "Eligible security" means:

(A) a surety bond;

(B) an investment security;

(C) an ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;

(D) a fixed-rate collateralized mortgage obligation that has an expected weighted average life of 10 years or less and does not constitute a high-risk mortgage security;

(E) a floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or

(F) a letter of credit issued by a federal home loan bank.

(5) "Investment security" means:

(A) an obligation that in the opinion of the attorney general of the United States is a general obligation of the United States and

backed by its full faith and credit;

(B) a general or special obligation issued by a public agency that is payable from taxes, revenues, or a combination of taxes and revenues; or

(C) a security in which a public entity may invest under Subchapter A, Chapter 2256.

(6) "Permitted institution" means:

(A) a Federal Reserve Bank;

(B) a clearing corporation, as defined by Section 8.102, Business & Commerce Code;

(C) a bank eligible to be a custodian under Section 2257.041; or

(D) a state or nationally chartered bank that is controlled by a bank holding company that controls a bank eligible to be a custodian under Section 2257.041.

(7) "Public agency" means a state or a political or governmental entity, agency, instrumentality, or subdivision of a state, including a municipality, an institution of higher education, as defined by Section 61.003, Education Code, a junior college, a district created under Article XVI, Section 59, of the Texas Constitution, and a public hospital.

(8) "Public entity" means a public agency in this state, but does not include an institution of higher education, as defined by Section 61.003, Education Code.

(9) "State agency" means a public entity that:

(A) has authority that is not limited to a geographic portion of the state; and

(B) was created by the constitution or a statute.

(10) "Trust receipt" means evidence of receipt, identification, and recording, including:

(A) a physical controlled trust receipt; or

(B) a written or electronically transmitted advice of transaction.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.48(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 914, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 254, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 891, Sec. 3.22(4), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.70, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.63, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 783 (H.B. 2103), Sec. 1, eff. June 17, 2011.

Sec. 2257.0025. HIGH-RISK MORTGAGE SECURITY. (a) For purposes of this chapter, a fixed-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) has an average life sensitivity with a weighted average life that:

(A) extends by more than four years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points; or

(B) shortens by more than six years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points; and

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(b) For purposes of this chapter, a floating-rate collateralized mortgage obligation is a high-risk mortgage security if the security:

(1) bears an interest rate that is equal to the contractual cap on the instrument; or

(2) is price sensitive; that is, the estimated change in the price of the mortgage derivative product is more than 17 percent, because of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

Added by Acts 1997, 75th Leg., ch. 254, Sec. 2, eff. Sept. 1, 1997.

Sec. 2257.003. CHAPTER NOT APPLICABLE TO DEFERRED COMPENSATION PLANS. This chapter does not apply to funds that a public entity maintains or administers under a deferred compensation plan, the federal income tax treatment of which is governed by Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401(k) and 457).

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.004. CONFLICT WITH OTHER LAW. This chapter prevails over any other law relating to security for a deposit of public funds to the extent of any conflict.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.005. CONTRACT GOVERNS LEGAL ACTION. A legal action brought by or against a public entity that arises out of or in connection with the duties of a depository, custodian, or permitted institution under this chapter must be brought and maintained as provided by the contract with the public entity.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER B. DEPOSITORY; SECURITY FOR DEPOSIT OF PUBLIC FUNDS

Sec. 2257.021. COLLATERAL REQUIRED. A deposit of public funds shall be secured by eligible security to the extent and in the manner required by this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.022. AMOUNT OF COLLATERAL. (a) Except as provided by Subsection (b), the total value of eligible security to secure a deposit of public funds must be in an amount not less than the amount of the deposit of public funds:

(1) increased by the amount of any accrued interest; and

(2) reduced to the extent that the United States or an instrumentality of the United States insures the deposit.

(b) The total value of eligible security described by Section 45.201(4)(D), Education Code, to secure a deposit of public funds of a school district must be in an amount not less than 110 percent of the amount of the deposit as determined under Subsection (a). The total market value of the eligible security must be reported at least once each month to the school district.

(c) The value of a surety bond is its face value.

(d) The value of an investment security is its market value.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 201, Sec. 46, eff. Sept. 1, 2003.

Sec. 2257.023. COLLATERAL POLICY. (a) In accordance with a written policy approved by the governing body of the public entity, a public entity shall determine if an investment security is eligible to secure deposits of public funds.

(b) The written policy may include:

(1) the security of the institution that obtains or holds an investment security;

(2) the substitution or release of an investment security; and

(3) the method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.024. CONTRACT FOR SECURING DEPOSIT OF PUBLIC FUNDS. (a) A public entity may contract with a bank that has its main office or a branch office in this state to secure a deposit of public funds.

(b) The contract may contain a term or condition relating to an investment security used as security for a deposit of public funds, including a term or condition relating to the:

(1) possession of the collateral;

(2) substitution or release of an investment security;

(3) ownership of the investment securities of the bank used to secure a deposit of public funds; and

(4) method by which an investment security used to secure a deposit of public funds is valued.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.006, eff. Sept. 1, 1999.

Sec. 2257.025. RECORDS OF DEPOSITORY. (a) A public entity's depository shall maintain a separate, accurate, and complete record relating to a pledged investment security, a deposit of public funds, and a transaction related to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a depository maintains under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.16, eff. Sept. 1, 1997.

Sec. 2257.026. CHANGE IN AMOUNT OR ACTIVITY OF DEPOSITS OF PUBLIC FUNDS. A public entity shall inform the depository for the public entity's deposit of public funds of a significant change in the amount or activity of those deposits within a reasonable time before the change occurs.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. CUSTODIAN; PERMITTED INSTITUTION

Sec. 2257.041. DEPOSIT OF SECURITIES WITH CUSTODIAN. (a) In addition to other authority granted by law, a depository for a public entity other than a state agency may deposit with a custodian a security pledged to secure a deposit of public funds.

(b) At the request of the public entity, a depository for a public entity other than a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds.

(c) A depository for a state agency shall deposit with a custodian a security pledged to secure a deposit of public funds. The custodian and the state agency shall agree in writing on the terms and conditions for securing a deposit of public funds.

(d) A custodian must be approved by the public entity and be:

(1) a state or national bank that:

(A) is designated by the comptroller as a state depository;

(B) has its main office or a branch office in this state; and

(C) has a capital stock and permanent surplus of $5 million or more;

(2) the Texas Treasury Safekeeping Trust Company;

(3) a Federal Reserve Bank or a branch of a Federal Reserve Bank;

(4) a federal home loan bank; or

(5) a financial institution authorized to exercise fiduciary powers that is designated by the comptroller as a custodian pursuant to Section 404.031(e).

(e) A custodian holds in trust the securities to secure the deposit of public funds of the public entity in the depository pledging the securities.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1010, Sec. 1, eff. June 17, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 344, Sec. 5.007, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 3, eff. September 1, 2009.

Sec. 2257.042. DEPOSIT OF SECURITIES WITH PERMITTED INSTITUTION. (a) A custodian may deposit with a permitted institution an investment security

the custodian holds under Section 2257.041.

(b) If a deposit is made under Subsection (a):

(1) the permitted institution shall hold the investment security to secure funds the public entity deposits in the depository that pledges the investment security;

(2) the trust receipt the custodian issues under Section 2257.045 shall show that the custodian has deposited the security in a permitted institution; and

(3) the permitted institution, on receipt of the investment security, shall immediately issue to the custodian an advice of transaction or other document that is evidence that the custodian deposited the security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.043. DEPOSITORY AS CUSTODIAN OR PERMITTED INSTITUTION. (a) A public entity other than a state agency may prohibit a depository or an entity of which the depository is a branch from being the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds.

(b) A depository or an entity of which the depository is a branch may not be the custodian of or permitted institution for a security the depository pledges to secure a deposit of public funds by a state agency.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.044. CUSTODIAN AS BAILEE. (a) A custodian under this chapter or a custodian of a security pledged to an institution of higher education, as defined by Section 61.003, Education Code, whether acting alone or through a permitted institution, is for all purposes the bailee or agent of the public entity or institution depositing the public funds with the depository.

(b) To the extent of any conflict, Subsection (a) prevails over Chapter 8 or 9, Business & Commerce Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.045. RECEIPT OF SECURITY BY CUSTODIAN. (a) On receipt of an investment security, a custodian shall immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity.

(b) For a deposit of public funds under Subchapter F, the custodian shall issue and deliver to the comptroller a trust receipt for the pledged security.

(c) For any other deposit of public funds under this chapter, at the written direction of the appropriate public entity officer, the custodian shall:

(1) issue and deliver to the appropriate public entity officer a trust receipt for the pledged security; or

(2) issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately.

(d) The custodian shall issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 1, eff. June 14, 2013.

Sec. 2257.046. BOOKS AND RECORDS OF CUSTODIAN; INSPECTION. (a) A public entity's custodian shall maintain a separate, accurate, and complete record relating to each pledged investment security and each transaction relating to a pledged investment security.

(b) The comptroller or the public entity may examine and verify at any reasonable time a pledged investment security or a record a custodian maintains under this section. The public entity or its agent may inspect at any time an investment security evidenced by a trust receipt.

(c) The public entity's custodian shall file a collateral report with the comptroller in the manner and on the dates prescribed by the comptroller.

(d) At the request of the appropriate public entity officer, the public entity's custodian shall provide a current list of all pledged investment securities. The list must include, for each pledged investment security:

(1) the name of the public entity;

(2) the date the security was pledged to secure the public entity's deposit;

(3) the Committee on Uniform Security Identification Procedures (CUSIP) number of the security;

(4) the face value and maturity date of the security; and

(5) the confirmation number on the trust receipt issued by the custodian.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.18, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 434 (S.B. 581), Sec. 2, eff. June 14, 2013.

Sec. 2257.047. BOOKS AND RECORDS OF PERMITTED INSTITUTION. (a) A permitted institution may apply book entry procedures when an investment security held by a custodian is deposited under Section 2257.042.

(b) A permitted institution's records must at all times state the name of the custodian that deposits an investment security in the permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.048. ATTACHMENT AND PERFECTION OF SECURITY INTEREST. (a) A security interest that arises out of a depository's pledge of a security to secure a deposit of public funds by a public entity or an institution of higher education, as defined by Section 61.003, Education Code, is created, attaches, and is perfected for all purposes under state law from the time that the custodian identifies the pledge of the security on the custodian's books and records and issues the trust receipt.

(b) A security interest in a pledged security remains perfected in the hands of a subsequent custodian or permitted institution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER D. AUDITS AND EXAMINATIONS; PENALTIES

Sec. 2257.061. AUDITS AND EXAMINATIONS. As part of an audit or regulatory examination of a public entity's depository or custodian, the auditor or examiner shall:

(1) examine and verify pledged investment securities and records maintained under Section 2257.025 or 2257.046; and

(2) report any significant or material noncompliance with this chapter to the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.062. PENALTIES. (a) The comptroller may revoke a depository's designation as a state depository for one year if, after notice and a hearing, the comptroller makes a written finding that the depository, while acting as either a depository or a custodian:

(1) did not maintain reasonable compliance with this chapter; and

(2) failed to remedy a violation of this chapter within a reasonable time after receiving written notice of the violation.

(b) The comptroller may permanently revoke a depository's designation as a state depository if the comptroller makes a written finding that the depository:

(1) has not maintained reasonable compliance with this chapter; and

(2) has acted in bad faith by not remedying a violation of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.063. MITIGATING CIRCUMSTANCES. (a) The comptroller shall consider the total circumstances relating to the performance of a depository or custodian when the comptroller makes a finding required by Section 2257.062, including the extent to which the noncompliance is minor, isolated, temporary, or nonrecurrent.

(b) The comptroller may not find that a depository or custodian did not maintain reasonable compliance with this chapter if the noncompliance results from the public entity's failure to comply with Section 2257.026.

(c) This section does not relieve a depository or custodian of the obligation to secure a deposit of public funds with eligible security in the amount and manner required by this chapter within a reasonable time after the public entity deposits the deposit of public funds with the depository.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

Sec. 2257.064. REINSTATEMENT. The comptroller may reinstate a depository's designation as a state depository if:

(1) the comptroller determines that the depository has remedied all violations of this chapter; and

(2) the depository assures the comptroller to the comptroller's satisfaction that the depository will maintain reasonable compliance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.19, eff. Sept. 1, 1997.

SUBCHAPTER E. EXEMPT INSTITUTIONS

Sec. 2257.081. DEFINITION. In this subchapter, "exempt institution" means:

(1) a public retirement system, as defined by Section 802.001; or

(2) the permanent school fund, as described by Section 43.001, Education Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.31, eff. Sept. 1, 1997.

Sec. 2257.082. FUNDS OF EXEMPT INSTITUTION. An exempt institution is not required to have its funds fully insured or collateralized at all times if:

(1) the funds are held by:

(A) a custodian of the institution's assets under a trust agreement; or

(B) a person in connection with a transaction related to an investment; and

(2) the governing body of the institution, in exercising its fiduciary responsibility, determines that the institution is adequately protected by using a trust agreement, special deposit, surety bond, substantial deposit insurance, or other method an exempt institution commonly uses to protect itself from liability.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2257.083. INVESTMENT; SELECTION OF DEPOSITORY. This chapter does not:

(1) prohibit an exempt institution from prudently investing in a certificate of deposit; or

(2) restrict the selection of a depository by the governing body of an exempt institution in accordance with its fiduciary duty.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER F. POOLED COLLATERAL TO SECURE DEPOSITS OF CERTAIN PUBLIC FUNDS

Sec. 2257.101. DEFINITION. In this subchapter, "participating institution" means a financial institution that holds one or more deposits of public funds and that participates in the pooled collateral program under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.102. POOLED COLLATERAL PROGRAM. (a) As an alternative to collateralization under Subchapter B, the comptroller by rule shall establish a program for centralized pooled collateralization of deposits of public funds and for monitoring collateral maintained by participating institutions. The rules must provide that deposits of public funds of a county are not eligible for collateralization under the program. The comptroller shall provide for a separate collateral pool for any single participating institution's deposits of public funds.

(b) Under the pooled collateral program, the collateral of a participating institution pledged for a public deposit may not be combined with, cross-collateralized with, aggregated with, or pledged to another participating institution's collateral pools for pledging purposes.

(c) A participating institution may pledge its pooled securities to more than one participating depositor under contract with that participating institution.

(d) The pooled collateral program must provide for:

(1) participation in the program by a participating institution and each affected public entity to be voluntary;

(2) uniform procedures for processing all collateral transactions that are subject to an approved security agreement described by Section 2257.103; and

(3) the pledging of a participating institution's collateral securities using a single custodial account instead of an account for each depositor of public funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.103. PARTICIPATION IN POOLED COLLATERAL PROGRAM. A financial institution may participate in the pooled collateral program only if:

(1) the institution has entered into a binding collateral security agreement with a public agency for a deposit of public funds and the agreement permits the institution's participation in the program;

(2) the comptroller has approved the institution's participation in the program; and

(3) the comptroller has approved or provided the collateral security agreement form used.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.104. COLLATERAL REQUIRED; CUSTODIAN TRUSTEE. (a) Each participating institution shall secure its deposits of public funds with eligible securities the total value of which equals at least 102 percent of the amount of the deposits of public funds covered by a security agreement described by Section 2257.103 and deposited with the participating institution, reduced to the extent that the United States or an instrumentality of the United States insures the deposits. For purposes of determining whether collateral is sufficient to secure a deposit of public funds, Section 2257.022(b) does not apply to a deposit of public funds held by the participating institution and collateralized under this subchapter.

(b) A participating institution shall provide for the collateral securities to be held by a custodian trustee, on behalf of the participating institution, in trust for the benefit of the pooled collateral program. A custodian trustee must qualify as a custodian under Section 2257.041.

(c) The comptroller by rule shall regulate a custodian trustee under the pooled collateral program in the manner provided by Subchapter C to the extent practicable. The rules must ensure that a custodian trustee depository does not own, is not owned by, and is independent of the financial institution or institutions for which it holds the securities in

trust, except that the rules must allow the following to be a custodian trustee:

(1) a federal reserve bank;

(2) a banker's bank, as defined by Section 34.105, Finance Code; and

(3) a federal home loan bank.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.105. MONITORING COLLATERAL. (a) Each participating institution shall file the following reports with the comptroller electronically and as prescribed by rules of the comptroller:

(1) a daily report of the aggregate ledger balance of deposits of public agencies participating in the pooled collateral program that are held by the institution, with each public entity's funds held itemized;

(2) a weekly summary report of the total market value of securities held by a custodian trustee on behalf of the participating institution;

(3) a monthly report listing the collateral securities held by a custodian trustee on behalf of the participating institution, together with the value of the securities; and

(4) as applicable, a participating institution's annual report that includes the participating institution's financial statements.

(b) The comptroller shall provide the participating institution an acknowledgment of each report received.

(c) The comptroller shall provide a daily report of the market value of the securities held in each pool.

(d) The comptroller shall post each report on the comptroller's Internet website.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.106. ANNUAL ASSESSMENT. (a) Once each state fiscal year, the comptroller shall impose against each participating institution an assessment in an amount sufficient to pay the costs of administering this subchapter. The amount of an assessment must be based on factors that include the number of public entity accounts a participating institution maintains, the number of transactions a participating institution conducts, and the aggregate average weekly deposit amounts during that state fiscal

year of each participating institution's deposits of public funds collateralized under this subchapter. The comptroller by rule shall establish the formula for determining the amount of the assessments imposed under this subsection.

(b) The comptroller shall provide to each participating institution a notice of the amount of the assessment against the institution.

(c) A participating institution shall remit to the comptroller the amount assessed against it under this section not later than the 45th day after the date the institution receives the notice under Subsection (b).

(d) Money remitted to the comptroller under this section may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.107. PENALTY FOR REPORTING VIOLATION. The comptroller may impose an administrative penalty against a participating institution that does not timely file a report required by Section 2257.105.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.108. NOTICE OF COLLATERAL VIOLATION; ADMINISTRATIVE PENALTY. (a) The comptroller may issue a notice to a participating institution that the institution appears to be in violation of collateral requirements under Section 2257.104 and rules of the comptroller.

(b) The comptroller may impose an administrative penalty against a participating institution that does not maintain collateral in an amount and in the manner required by Section 2257.104 and rules of the comptroller if the participating institution has not remedied the violation before the third business day after the date a notice is issued under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.109. PENALTY FOR FAILURE TO PAY ASSESSMENT. The comptroller may impose an administrative penalty against a participating institution that does not pay an assessment against it in the time provided by Section 2257.106(c).

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.110. PENALTY AMOUNT; PENALTIES NOT EXCLUSIVE. (a) The comptroller by rule shall adopt a formula for determining the amount of a penalty under this subchapter. For each violation and for each day of a continuing violation, a penalty must be at least $100 per day and not more than $1,000 per day. The penalty must be based on factors that include:

(1) the aggregate average weekly deposit amounts during the state fiscal year of the institution's deposits of public funds;

(2) the number of violations by the institution during the state fiscal year;

(3) the number of days of a continuing violation; and

(4) the average asset base of the institution as reported on the institution's year-end report of condition.

(b) The penalties provided by Sections 2257.107-2257.109 are in addition to those provided by Subchapter D or other law.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.111. PENALTY PROCEEDING CONTESTED CASE. A proceeding to impose a penalty under Section 2257.107, 2257.108, or 2257.109 is a contested case under Chapter 2001.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.112. SUIT TO COLLECT PENALTY. The attorney general may sue to collect a penalty imposed under Section 2257.107, 2257.108, or 2257.109.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.113. ENFORCEMENT STAYED PENDING REVIEW. Enforcement of a penalty imposed under Section 2257.107, 2257.108, or 2257.109 may be stayed during the time the order is under judicial review if the participating institution pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A participating institution that cannot afford to pay the penalty or file the

bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the comptroller to contest the affidavit as provided by those rules.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.

Sec. 2257.114. USE OF COLLECTED PENALTIES. Money collected as penalties under this subchapter may be appropriated only for the purposes of administering this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 486 (S.B. 638), Sec. 1, eff. September 1, 2009.