

LOCAL GOVERNMENT CODE

TITLE 4. FINANCES

SUBTITLE C. FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE TYPE OF  
LOCAL GOVERNMENT

CHAPTER 131. DEPOSITORY PROVISIONS AFFECTING FUNDS OF  
MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. SPECIAL DEPOSITORY

Sec. 131.001. SPECIAL DEPOSITORY AUTHORIZED. If a financial institution that is a depository under state law for the public funds of a county, municipality, or district suspends business or is taken charge of by a state or federal bank regulatory agency, the local government authority authorized to select the original depository may select by contract a special depository for the public funds in the suspended financial institution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.010, eff. Sept. 1, 1999.

Sec. 131.002. DUTIES OF SPECIAL DEPOSITORY. The special depository shall assume the payment of the amount of public funds due by the suspended bank on the date of its suspension, including interest to that date, and shall pay that amount to the designated local government authority in accordance with the contract entered into by the special depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.003. SPECIAL DEPOSITORY CONTRACT. (a) The contract must require the payment of the deposit in installments as agreed to by the parties. The last installment must be paid not later than three years from the date of the contract.

(b) The parties may contract for the installments or the amount due to be evidenced by negotiable certificates of deposit or cashier's checks, payable at specified dates.

(c) The contract must set the rate of interest applicable to the funds placed in the special depository under this subchapter unless the parties agree that the funds are not to bear interest.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.004. BOND. (a) To secure the performance of a special depository contract, the special depository shall execute a bond, or bonds in the case of installments, with the same character of sureties required for regular depository bonds.

(b) The local government authority authorized by law to approve a bond of a regularly selected depository must approve a bond of a special depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.005. STATE FUNDS. (a) The comptroller shall determine the amount of state funds held by a county depository that suspends business or is taken charge of by a state or federal bank regulatory agency. The comptroller may:

(1) contract with a special depository selected by the county authorities as provided by this subchapter for the custody and payment of those funds; and

(2) approve a bond for the deposit contract.

(b) State funds placed in a special depository as provided by Subsection (a) shall bear the average rate of interest received by the state on state funds placed with regularly selected state depositories.

(c) The comptroller may proceed with available legal remedies against a suspended bank that is a depository for state funds if the comptroller considers that action to be in the best interest of the public.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 35, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.011, eff. Sept. 1, 1999.

#### SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 131.901. OUT-OF-STATE DEPOSITORY PROHIBITED. (a) The governing body of a political subdivision, including a county, municipality, school district, or other district, may not designate a financial institution located outside the state as a depository

for funds under the governing body's jurisdiction. An out-of-state financial institution is not considered to be located outside this state to the extent the governing body designates a branch office of such institution that is located in this state.

(b) An institution selected as a paying agent or trustee for specific bonds or obligations or an institution selected by the governing body to provide safekeeping services is not considered a depository for purposes of this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 234, Sec. 3, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 344, Sec. 5.012, eff. Sept. 1, 1999.

Sec. 131.902. PURSUIT OF LEGAL REMEDIES AGAINST SUSPENDED BANK. A county, municipality, or district authority may proceed with available legal remedies against a suspended bank that is a depository for public funds of the authority if the authority considers that action to be in the best interest of the public.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 131.903. CONFLICT OF INTEREST. (a) A bank is not disqualified from serving as a depository for funds of a political subdivision if:

(1) an officer or employee of the political subdivision who does not have the duty to select the political subdivision's depository is an officer, director, or shareholder of the bank; or

(2) one or more officers or employees of the political subdivision who have the duty to select the political subdivision's depository are officers or directors of the bank or own or have a beneficial interest, individually or collectively, in 10 percent or less of the outstanding capital stock of the bank, if:

(A) a majority of the members of the board, commission, or other body of the political subdivision vote to select the bank as a depository; and

(B) the interested officer or employee does not vote or take part in the proceedings.

(b) This section may not be construed as changing or

superseding a conflicting provision in the charter of a home-rule municipality.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 36, eff. Sept. 1, 1993.