



Ohio Revised Code

Section 113.52 Depositories and managers.

Effective: October 12, 2016

Legislation: House Bill 483 - 131st General Assembly

(A) The treasurer of state shall solicit proposals from financial organizations to act as depositories and managers of the program. Financial organizations submitting proposals shall describe the investment instruments that will be held in program accounts. The treasurer may select more than one investment instrument for the program. The treasurer shall select as program managers the financial organization or organizations, from among the bidding financial organizations, that demonstrate the most advantageous combination, both to potential program participants and the state, of the following factors:

- (1) Financial stability and integrity of the financial organization;
- (2) The safety of the investment instruments being offered;
- (3) The ability to satisfy record keeping and reporting requirements prescribed under sections 113.50 to 113.56 of the Revised Code;
- (4) The organization's plan for promoting the program and the investment the organization is willing to make to promote the program;
- (5) The fees, if any, proposed to be charged to account owners;
- (6) The minimum initial deposit and minimum contributions that the financial organization will require;
- (7) The ability of the organization to accept electronic deposits, including payroll deduction plans;
- (8) Other benefits to the state or its residents included in the proposal, including fees payable to the state to cover the program's operating expenses.



(B) The treasurer of state may enter into a contract or a series of contracts with one or more financial organizations that submit a proposal under division (A) of this section for an organization to act as a manager and depository for the program. A contract or series of contracts shall include, at a minimum, terms requiring the financial organization to do all of the following:

- (1) Take any action required to keep the program in compliance with the requirements of sections 113.50 to 113.56 of the Revised Code and any actions not contrary to its contract to manage the program to qualify as a qualified ABLE program;
- (2) Keep adequate records of each program account, keep each program account segregated from each other program account, and provide the treasurer with the information necessary to prepare the statements required by section 113.53 of the Revised Code;
- (3) Compile and calculate information contained in statements required to be prepared under section 113.53 of the Revised Code and provide such calculations to the treasurer;
- (4) If there is more than one program manager, provide the treasurer with information as is necessary to determine compliance with section 113.53 of the Revised Code;
- (5) Provide the treasurer with access to the books and records of the program manager to the extent needed to determine compliance with the management contract, sections 113.50 to 113.56 of the Revised Code, and section 529A of the Internal Revenue Code;
- (6) Hold all program accounts for the benefit of the account owner;
- (7) Be audited at least annually by a firm of certified public accountants selected by the program manager and provide the results of such audit to the treasurer;
- (8) Provide the treasurer with copies of all regulatory filings and reports made by the financial organization during the term of the management contract or while the financial organization is holding any program accounts, other than confidential filings or reports that will not become part of the program;



(9) Make available for review by the treasurer the results of any periodic examination of such organization by any state or federal banking, insurance, or securities agency, except to the extent that such report or reports may not be disclosed under law;

(10) Ensure that any description of the program, whether in writing or through the use of any other media, is consistent with the marketing plan developed under division (A)(6) of section 113.51 of the Revised Code.

(C) The treasurer of state may do any of the following:

(1) Enter into management contracts as the treasurer considers necessary and proper for the implementation of the program;

(2) Require that an audit be conducted of the operations and financial position of a program manager at any time if the treasurer has any reason to be concerned about the financial position, the record keeping practices, or the status of program accounts of that program manager;

(3) Terminate or not renew a management contract.

(D) The treasurer of state, the department of medicaid, the department of job and family services, the department of health, the department of mental health and addiction services, the department of developmental disabilities, opportunities for Ohioans with disabilities agency, and the department of aging may exchange information relating to eligible individuals for the purpose of administering or enforcing sections 113.50 to 113.56 of the Revised Code, except to the extent prohibited under federal law.

(E) If the treasurer of state terminates or does not renew a management contract under this section, the treasurer shall take custody of program accounts held by the program manager and shall seek to promptly transfer such program accounts to another financial organization that is selected as a program manager and into investment instruments as similar to the original instruments as possible.