



Dallas/Fort Worth International Airport
INVESTMENT POLICY and STRATEGIES

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Dallas/Fort Worth International Airport
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Section One: Investment Policy

1.0 INTRODUCTION AND PURPOSE

This policy shall provide the guidelines by which the Dallas/Fort Worth International Airport Board (“DFW”) will maintain adequate cash to meet its liquidity needs and to provide protection for its principal while optimizing yield. This policy also serves to satisfy the statutory requirements of defining and adopting a formal investment policy as required by the Texas Public Funds Investment Act, Government Code Chapter 2256 (the “Act”) as amended and effective September 1, 2009 (see Section 5) and provides compliance with existing bond ordinances. All investments made by DFW shall comply with the Act, and federal, state and local statutes, rules and regulations.

2.0 SCOPE

This Investment Policy applies to the operating funds, special purpose funds, interest and sinking funds, reserve funds and bond funds of DFW. Excluded from this policy are the Dallas/Fort Worth International Airport Employees’ Retirement Plans and funds held by a trustee in accordance with an authorized trust agreement. The investment of bond funds (as defined by the Internal Revenue Service) shall be managed in accordance with their governing resolution and all applicable state and federal law.

3.0 INVESTMENT OBJECTIVES

Investment of the funds covered by this policy shall be governed by the following objectives in the order of priority:

A. Safety of Principal

1) The primary objective of all investment activity is the preservation of capital and safety of principal in the overall portfolio. Each investment transaction will seek to ensure first that capital losses are avoided, whether they are from security defaults or erosion of market value.

2) DFW will seek to control the risk of loss due to the failure of a security issuer or grantor. Such risk shall be controlled by investing only in the safest type of securities as defined in the policy; by collateralization as required by law; and through portfolio diversification by maturity and type.

B. Maintenance of Adequate Liquidity: To the extent that cash flow requirements may be reasonably anticipated, investments shall be managed to meet them. Liquidity needs may be met by investing in pools and no-load money market funds that allow for same day withdrawals.

C. Public Trust: All participants in DFW’s investment process shall seek to act responsibly as custodians of the public trust. Investment officers shall avoid any transactions that impair the public confidence in DFW.

D. Optimization of Interest Earnings: The investment portfolio will be managed with the objective of optimizing interest earnings while remaining in compliance with the policy, the law, and the Airport’s risk tolerance, as expressed in this policy. Optimizing interest earnings, although important, is subordinate to the safety and liquidity objectives of the Airport.

4.0 AUTHORIZED INVESTMENTS

A. Investments described below are authorized by the “Act” and are eligible investments for DFW. The purchase of specific issues may at times be restricted or prohibited by the Finance/Audit Committee and Board of Directors. At no time shall any single security exceed 5% of total Board funds unless said investment consists of,

or is collateralized by instruments described in Section 4.0, paragraphs 1., 2., or 3. Board funds governed by this policy may be invested in:

- 1) Obligations of the United States or its agencies or instrumentalities as permitted by Government Code 2256.009(a) (1).
- 2) Obligations of the State of Texas or its agencies or instrumentalities as permitted by Government Code 2256.009(a) (2).
- 3) Other obligations, the principal and interest of which are unconditionally guaranteed or insured by the full faith and credit of this State or the United States or their respective agencies and instrumentalities as permitted by Government Code 2256.009 (a) (2).
- 4) Municipal obligations having a minimum bond rating of A as permitted by Government Code 2256.009(a)(5)
- 5) Certificates of deposit and share certificates as permitted by Government Code 2256.010.
- 6) Fully collateralized repurchase agreements permitted by Government Code 2256.011.
- 7) Banker's acceptances as permitted by Government Code 2256.012.
- 8) Commercial paper (CP) as permitted by Government Code 2256.013 that is issued in the United States and pre-approved by the Investment Officers.
- 9) Two types of mutual funds as permitted by Government Code 2256.014 - money market mutual funds and no-load mutual funds.
- 10) A guaranteed investment contract (GIC) as an investment vehicle for bond proceeds provided it meets the criteria and eligibility requirements established by Government Code 2256.015.
- 11) Public funds investment pools as permitted by Government Code 2256.016.

5.0 UNAUTHORIZED INVESTMENTS

- A. The following investments are specifically prohibited under this Policy:
- 1) Collateral mortgage obligations and any derivatives thereof.
 - 2) Asset-backed commercial paper and commercial paper not pre-approved by all Investment Officers.
 - 3) Investments specifically prohibited by Government Code 2256.009 (b)
 - 4) Investments with maturities greater than five years based on the DFW's settlement (purchase) date.

6.0 AUTHORITY TO HOLD INVESTMENTS

DFW is not required to liquidate an investment that was an authorized investment at the time of purchase unless it no longer meets its minimum credit rating requirement. The Investment Officers will take all prudent measures that are consistent with this investment policy to liquidate an investment that does not have the minimum rating.

7.0 SPECIAL PLACEMENT OF CERTIFICATES OF DEPOSIT

The DFW Board of Directors may authorize placement of Certificates of Deposit with minority financial institutions located in the Dallas/Fort Worth metropolitan statistical area, in an amount not greater than \$1,000,000 and with maturities of one year or less, without seeking competitive bids.

8.0 COLLATERALIZATION

A. CERTIFICATES OF DEPOSIT

1) Authorization: Consistent with the Texas Government Code, Chapter 2257, as amended and effective September 2009 (see Section 6), DFW requires all bank and savings and loan association deposits to be federally insured or collateralized with authorized securities. Financial institutions serving as Board Depositories will be required to sign a Depository Agreement with DFW. The safekeeping portion of the Agreement will define the Board's rights to the collateral in case of default, bankruptcy, or closing and will establish a perfected security interest in compliance with federal and state regulations. The Agreement must:

- a) Be in writing;
- b) Be executed by the Depository and DFW contemporaneously with the acquisition of the asset;
- c) Be approved by the Depository Board of Directors or the Loan Committee of the Depository with a copy of the meeting minutes delivered to DFW; and
- d) Be part of the Depository's "official record" continuously since its execution.

2) Allowable Collateral

- a) Obligations of the United States or its agencies or instrumentalities, as permitted by Government Code 2256.009.
- b) Obligations of the State of Texas or its agencies or instrumentalities, as permitted by Government Code 2256.009.
- c) Municipal obligations having a minimum bond rating of AA as permitted by Government Code 2256.009.
- d) Letters of credit issued by the Federal Home Loan Bank ("FHLB") agency. The use of FHLB letters of credit as a form of collateral are restricted to special placement of CDs as defined in Section 7.0.
- e) Surety Bonds issued by financial institutions having at least an AA or an equivalent credit rating from at least one nationally recognized rating firm. Surety bonds shall be monitored annually to assure the bond remains in place and is of an amount adequate to meet this policy.
- f) Collateral as permitted by the pooled collateral state program under Subchapter F of the Public Funds Collateral Act.

3) Collateral Levels

a) The market value of the principal portion of collateral pledged for certificates of deposit must at all times be equal to or greater than the par value of the certificate of deposit plus accrued interest, less the applicable level of FDIC insurance. The collateral market value must be maintained at the following levels:

- (1) US Treasuries or agencies, State of Texas agencies or instrumentalities, and municipal obligations rated AA – 102%
- (2) Surety bonds rated AA – 100%
- (3) FHLB letters of credit – 100%

4) Monitoring Collateral Adequacy: Surety bonds and Federal Home Loan Bank (FHLB) Letters of Credit will be monitored on an annual basis. Other types of acceptable collateral will be monitored on a monthly basis. The Investment Officers will monitor adequacy of collateralization levels to verify market values and total collateral positions. If the collateral pledged for a certificate of

deposit falls below the par value of the deposit, plus accrued interest less FDIC insurance, the institution issuing the CD will be notified by the Investment Officers and will be required to pledge additional collateral no later than the end of the next succeeding business day.

5) Safekeeping of Collateral: All collateral securing bank and savings and loan deposits, with the exception of surety and FHLB Letters of Credit, must be held by a third-party institution, in DFW's name, meeting the requirements of the Public Funds Collateral Act and acceptable to DFW, or by the Federal Reserve Bank.

B. REPURCHASE AGREEMENTS AND GUARANTEED INVESTMENT CONTRACTS (GICs)

1) Authorization: Repurchase agreements or GICs must also be secured in accordance with State law. Counter-parties to a repurchase transaction will be required to sign a copy of the Bond Market Association (BMA) Master Repurchase Agreement or a form compliant with the Agreement as approved by DFW. An executed copy of this Agreement must be on file before DFW will enter into any transaction with counter-parties. The Finance/Audit Committee and the Airport Board of Directors must approve all Master Repurchase Agreements and GICs.

2) Allowable Collateral

- a) United States Treasuries
- b) United States Agencies or Instrumentalities
- c) Collateral as permitted by the pooled collateral state program under Subchapter F of the Public Funds Collateral Act.

3) Collateral Levels

a) A repurchase agreement or GIC's security value will be the par value plus accrued interest. The collateral market value must be maintained at the following minimum levels:

Agreement Maturities Greater Than One Business Day

U. S. Treasury Securities	102%
U. S. Agency and Instrumentalities	102%

Agreement Maturities Not Exceeding One Business Day

All Securities	100%
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4) Monitoring Collateral Adequacy: Monthly monitoring by an Investment Officer of market values of all underlying securities purchased as collateral for repurchase agreements and GICs is required. If the value of the securities underlying an agreement falls below the margin maintenance levels specified above, the Investment Officers will request additional securities. If the agreement is scheduled to mature within five business days and the amount is deemed to be immaterial the request is not necessary.

5) Safekeeping of Collateral: The securities pledged under repurchase agreements and GICs must be delivered to a third-party custodian with whom DFW has established a safekeeping agreement.

C. COLLATERAL SUBSTITUTION

1) Collateral substitutions are permitted when the substitute collateral is of the type allowable by this policy and maintains the collateral levels required by this policy. Notice of collateral substitution must be submitted in writing to the Board within three business days of the substitution and include the type and market value of both the collateral substituted and the substitute collateral. The

Investment Officers may prohibit or limit substitution and assess appropriate fees if substitution becomes excessive or abusive. Any costs relating to the substitution of collateral must be the responsibility of the institution requesting the substitution.

9.0 SAFEKEEPING OF INVESTMENTS

A. All securities transactions will be executed "delivery versus payment" (DVP) through DFW's Safekeeping Agent. By so doing, Board funds are not released until DFW has received, through the Safekeeping Agent, the securities purchased.

1) Safekeeping Agreement - DFW will contract with an independent third-party custodian for the safekeeping of securities owned by DFW as a part of its investment portfolio. All securities shall be held in the name of DFW and shall be evidenced by a monthly statement from the custodian.

10.0 FINANCE/AUDIT COMMITTEE

A. The DFW Finance and Audit Committee shall serve as the oversight committee relating to the investment of Board's funds. Responsibilities in this regard are to:

- 1) Review and recommend Board approval of the Investment Policy on an annual basis as required by the Act.
- 2) Review and recommend Board approval of an Annual Investment Strategy for each fund on an annual basis as required by the Act.
- 3) Review Investment Reports on a quarterly basis.

11.0 REVIEW AND ADOPTION

This Investment Policy, Investment Strategies, Approved Investment Training Sources, and Approved Broker/Dealers List will be reviewed annually by the Finance/Audit Committee and approved by the DFW Board of Directors. Interim amendments must be reviewed by the Finance/Audit Committee and approved by the DFW Board of Directors.

12.0 AUTHORITY TO INVEST

The Chief Financial Officer, the Vice President of Treasury Management, and the Cash and Investment Manager are the "Investment Officers" of DFW. Except as limited below, Investment Officers are authorized to deposit, withdraw, transfer, and execute documentation with regard to investments, and manage Board funds according with this Investment Policy and Strategies. All investment purchases and sales, excluding money market fund transfers on established accounts, require the approval of two investment officers.

13.0 INVESTMENT TRAINING

All "Investment Officers" are required to attend investment training in accordance with the Act. Investment Officers are required to attend at least 10 hours of instruction relating to investment responsibilities within 12 months after taking office or assuming duties and every two years thereafter, that addresses investment controls, security risks, strategy risks, market risks, and compliance with the Act. To insure quality and suitability, training shall be obtained from one of the independent sources listed in Section 4 to this policy.

14.0 PRUDENCE

A. The standard of prudence to be used by DFW will be the “prudent person standard” and will be applied in the context of managing the overall portfolio within the applicable legal constraints and under the prevailing economic conditions. The standard states:

“Investments will be made with judgment and care, under circumstances then prevailing, 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”.

B. The designated Investment Officers will perform their duties with judgment and care in accordance with the adopted Investment Policy and internal procedures. Investment Officers, acting in good faith and in accordance with these policies and procedures, will be relieved of personal liability. In determining whether an investment officer has exercised prudence with respect to an investment decision (in addition to compliance with policies and procedures) the determination will be made taking into consideration the investment of all funds, or funds under the entity’s control, over which the officer had responsibility rather than a single investment.

15.0 STANDARD OF ETHICS

A. The designated Investment Officers will adhere to Dallas / Fort Worth International Airport Board “Code of Business Ethics” and the Act. All Investment Officers will disclose to the Finance / Audit Committee their financial interests in financial institutions that conduct business with the Airport Board, and they will also disclose all personal financial/investment positions that could be related to the performance of the Airport’s portfolio. Investment Officers will refrain from personal business activity, other than routine banking relations, that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Additionally, all Investment Officers will file with the Texas Ethics Commission and DFW a statement disclosing any personal business relationship with an entity seeking to sell investments to DFW or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell investments to DFW.

B. All Investment Officers shall certify in writing to the Chief Executive Officer no later than December 31 of each year that they have no personal business relationship with any investors or investment companies currently involved in investment activities or seeking investment opportunities with the Airport Board. Written notice shall be made to the Texas Ethics Commission only if such relationship exists.

16.0 ESTABLISHMENT OF INTERNAL CONTROLS

The Finance / Audit Committee of the DFW Board of Directors will oversee the investment officers in the maintenance of a system of internal controls over the investment activities of DFW. DFW, in conjunction with its annual financial audit, will perform a compliance audit of management controls on investments and adherence to DFW’s Investment Policy.

17.0 REPORTING

A. Investment performance shall be monitored and evaluated by the Investment Officers. The Investment Officers will provide a quarterly comprehensive report, as defined in the Act, signed by all Investment Officers to the Finance / Audit Committee,

the DFW Board of Directors and to the Airport's Chief Executive Officer. An independent auditor will formally review the investment reports at least annually and the result of the review reported to the governing body by that auditor. DFW will utilize a nationally recognized pricing service to obtain market prices for investments acquired with public funds. This investment report will:

- 1) Describe in detail the investment position of DFW on the date of the report;
- 2) State the reporting period beginning market value, additions or changes to the market value during the period and ending market value for the period of each pooled fund group.
- 3) Include all fully accrued interest as of the end of the reporting period.
- 4) State the reporting period, beginning market value and book value and ending market value and book value for each investment security by asset type and fund type.
- 5) State the maturity date of each investment security.
- 6) State the fund for which each investment security was purchased, and
- 7) State the compliance of the investment portfolio with DFW's Investment Policy, Investment Strategy and the Act.

18.0 BROKER/DEALERS

- A. Annually, DFW Airport shall adopt a list of qualified broker/dealers firms authorized to engage in investment transactions with DFW Airport.
- B. The Investment Officers shall evaluate the broker/dealers and select not less than five and not more than seven broker/dealers to be presented to the Board for approval.
- C. Each broker/dealer firm, at least annually, shall provide an acknowledgment and certification that:
 - (1) The qualified broker/dealer representative signing the certification is authorized to execute the document on behalf of the Broker/Dealer;
 - (2) That the qualified broker/dealer representative has received and reviewed the Airport Board's Investment Policy and Strategies;
 - (3) That the qualified broker/dealer representative has implemented reasonable procedures and controls to preclude imprudent investment activities with the Airport Board; and
 - (4) That the broker/dealer adheres to SEC rule 15C3-1 (uniform net capital rule)
- D. DFW may not purchase investments from a new broker/dealer until the executed certification referenced in item C above has been received.
- E. New broker/dealers shall complete and submit a broker/dealer questionnaire provided by DFW Airport.
- F. Approved Broker/dealers with securities inventories available electronically for view and/or purchase, shall provide DFW the ability to view and purchase investments electronically. Failure of a Broker/Dealer to notify DFW of the ability to view and/or purchase investments electronically or to deny access may be cause for termination.
- G. This investment policy is in effect until the Board approves a superseding policy and said policy has been made available to the broker/dealers. The Investment Officers shall provide a new investment policy approved by the Board within 60 days of approval.

19.0 COMPETITIVE PRACTICES

Investment transactions governed by this policy will adhere to bidding procedures as outlined in the Public Funds Investment Act, whether the transaction is executed by an investment officer or by a contracted investment advisor. Viewing published Broker/Dealer's inventories available for sale may be considered an offer and a part of the competitive review process.

20.0 DIVERSIFICATION

A. Diversification by investment type will be maintained to ensure an active and efficient secondary market in portfolio investments and to control the market and credit risks associated with specific investment types.

B. Bond proceeds may be invested in a single security or investment if the Finance/Audit Committee determines that such an investment is necessary to comply with federal arbitrage restrictions or to facilitate arbitrage record keeping and calculation.

21.0 SALE OF SECURITIES

A security may be liquidated to meet unanticipated cash requirements, to minimize the loss of principal on a declining credit security or to re-deploy cash into other investments expected to outperform current holdings, or otherwise improve the quality, yield or target duration in the portfolio.

22.0 INVESTMENT POLICY ADOPTION

DFW's Investment Policy shall be adopted by resolution of the Board, at least annually. It is DFW's intent to comply with state law and regulations. DFW's Investment Policy shall be subject to revisions consistent with changing laws, regulations, and needs of DFW. The Resolution shall include a detail of all substantive changes to the policy.

23.0 PRECEDENCE

Should there be any discrepancies, conflicts or inconsistencies between the Act and the Policy, the Act shall take precedence. Similarly, if the policy does not provide complete or clear direction, the Act shall be the controlling guidance.

24.0 EFFECTIVE DATE

In order to allow sufficient time to certify broker/dealers under this policy, the effective date of this policy is February 1, 2011. The Policy approved on December 3, 2009 shall remain effective until that date.

Dallas/Fort Worth International Airport
INVESTMENT POLICY and STRATEGIES

Section Two: Investment Strategies

INVESTMENT STRATEGIES

PORTFOLIO STRATEGY

1.0 PURPOSE

A. These investment strategies are provided in conformance with the requirements of the Texas Public Funds Investment Act ("the Act") Government Code 2256.005 (d) which states:

"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 investment suitability to the financial requirements of the entity;
- 2) Preservation and safety of principal;
- 3) Liquidity; marketability of the investment if a need arises to liquidate before maturity;
- 4) Diversification of the investment portfolio; and
- 5) Optimization of Interest Earnings."

B. The strategies provide guidelines for the day-to-day management of the Airport's investment portfolio in a dynamic and changing market environment.

2.0 OPTIMIZATION OF INTEREST

A. To optimize interest earnings, below are the recommended strategies to employ when market conditions vary.

- 1) In markets where time risk is rewarded, invest for longer terms. This market has a normal Treasury yield curve.
- 2) In markets where time risk is not rewarded, invest for shorter terms. This will provide the opportunity and the funds to reinvest when markets improve. This market has a flat or inverted Treasury yield curve.

3.0 PORTFOLIO DIVERSIFICATION

A. Risk of principal loss in the portfolio shall be minimized by diversifying investment types and issuers according to the following limitations.

<u>Limits for Investment Types</u>	<u>Target Limit Percentage</u>	<u>Maximum Percentage</u>
U.S. Treasury Notes / Bills	100%	100%
U.S. Agencies & Instrumentalities	100%	100%
CDs	100%	100%
Repurchase Agreements	100%	100%
GIC's (Limited to Bond Funds)	100%	100%
Investment Pools	50%	55%
Money Market Funds	50%	55%
Callable Securities	35%	40%
Non-Asset Backed Commercial Paper & Bankers Acceptances	25%	28%

<u>Limits for an Investment Institution or Issuer:</u>	<u>Target Limit Percentage</u>	<u>Maximum Percentage</u>
State of Texas Obligations	20%	22.5%
Bank CD's	20%	22.5%
State & Local Government Obligations	10%	12.5%
AAA-rated non-2a7 Mutual Funds	10%	12.5%
Repo / GIC Counter-Parties	50%	55%
Federal Agencies	25%	30%
Investment Pools or Mutual Funds	20%	25%
CP / BA / Banks / Municipal Issuers	5%	7.5%
Money Markets	NA	100%

- B. Diversification targets and limits shall be monitored on a quarterly basis.
- C. In the event a pooled fund group is formed at DFW, as defined in the Act, the maximum dollar-weighted average maturity will be 90 days.

STRATEGIES BY FUND

1.0 OPERATING FUNDS (102)

- A. The Operating Fund has three components with differing strategies.
- 1) Operating Fund
 - (a) Fund Purpose: The main Operating Fund is used to meet daily operating and maintenance expenses, and to provide for the monthly transfers to the various interest and sinking funds that accumulate the annual debt service coverage.
 - (b) Estimated Fund Retention: Securities shall be positioned to mature within one year.
 - (c) Maximum Maturity: One year
 - (d) Target Weighted Average Maturity ("WAM"): 180 days
 - (e) Appropriate Investments: Liquidity is essential to meet ongoing obligations of the Airport and may be effectively achieved with approved short-term investments. Diversification by maturity date may assure that funds are available to meet obligations.
 - (f) Yield Objective: Shall be to optimize investment earnings within policy guidelines and liquidity constraints.
 - (g) Benchmark: The benchmark is the average 3-month Treasury Bill yield over the quarterly reporting period.
 - 2) Operating Reserve Fund
 - (a) Fund Purpose: The Operating Reserve Fund is a segregated portion of Fund 102 that is equal to one-quarter of the current operating expenses of the Airport.
 - (b) Estimated Fund Retention: As a reserve fund, the balance is stable and long-term.
 - (c) Maximum Maturity: Five years
 - (d) Target WAM: Shall range from 24 to 48 months depending on perceived market conditions.
 - (e) Appropriate Investments: Any investments authorized by policy, except Guaranteed Investment Contracts (GIC's) and Flexible Repurchase Agreements are suitable for this reserve fund. Liquidity is not a primary concern. Diversification by issuer is also preferred but shall be considered primarily as part of the overall portfolio.
 - (f) Yield Objective: Shall be to optimize interest earnings by extending portfolio maturities thereby taking advantage of upward sloping yield curves or locking in higher yields during periods of monetary policy easing.
 - (g) Benchmark: Shall be the average 2-Year Treasury Note yield over the quarterly reporting period.
 - 3) Rolling Coverage Fund
 - (a) Fund Purpose: The Rolling Coverage Fund is a reserved portion of Fund 102 equal to one-quarter of the Airport's annual debt service payments.
 - (b) Estimated Fund Retention: As a reserve fund, the balance is stable and long-term.

- (c) Maximum Maturity: Five years
- (d) Target WAM: Shall range from 24 to 48 months depending on perceived market conditions.
- (e) Appropriate Investments: Any investments authorized by policy, except Guaranteed Investment Contracts (GIC's) and Flexible Repurchase Agreements are suitable for the Operating Reserve Fund. Liquidity is not a primary concern. Diversification by issuer is also preferred but shall be considered primarily as part of the overall portfolio.
- (f) Yield Objective: shall be to optimize interest earnings by extending portfolio maturities thereby taking advantage of upward sloping yield curves or locking in higher yields during periods of monetary policy easing.
- (g) Benchmark: for this fund shall be the average 2-Year Treasury Note yield over the quarterly reporting period.

2.0 CAPITAL FUNDS

A. Joint Capital Account

- 1) Fund Purpose: As part of the new Use Agreement, the Joint Capital Fund is a segregated fund for capital improvements subject to airline approval (MII).
- 2) Estimated Funds Retention: Funds in this account will be expended over a one to three year period. DFW currently plans to use the Joint Capital Account to fund scheduled projects, then to reimburse the Joint Capital Account from the issuance of bonds after the projects are complete. In addition, DFW expects to maintain a core amount of about \$100 million that may be held for longer periods. This Account is funded from proceeds from Natural Gas Royalties and the sale of real estate.
- 3) Maximum Maturity: Five years
- 4) Target WAM: The target weighted average maturity of the Joint Capital Account shall be based on an annual review of expected cash flows, but will normally range from 180 days to two years. Whenever possible, the maturity structure shall be laddered with securities maturing on various dates to meet known obligations.
- 5) Appropriate Investments: Liquidity is essential to meet ongoing obligations of the Airport and may be effectively achieved with the use of short and long-term investments. Diversification by maturity date will assure that funds are available to meet obligations.
- 6) Yield Objective: Shall be to optimize interest earnings within policy guidelines and liquidity constraints.
- 7) Benchmark: The benchmark for this fund shall be the one-year Moving Treasury Average ("MTA") over the quarterly reporting period.

B. DFW Capital Account

- 1) Fund Purpose: The DFW Capital Fund is a segregated account for discretionary capital improvements. Expenditures from this fund do not require approval from the airlines.
- 2) Estimated Funds Retention: The DFW Capital Fund will generally pay for capital projects in one to three years. DFW plans for this Account to receive approximately \$60 million per year per the terms of the new Use Agreement.
- 3) Maximum Maturity: Three years
- 4) Target WAM: The target weighted average maturity shall be 180 days to two years depending on perceived market conditions and expected liquidity in the fund
- 5) Appropriate Investments: Any short-term investments authorized by policy
- 6) Yield Objective: Shall be to optimize interest earnings within policy guidelines and liquidity constraints.
- 7) Benchmark: Shall be the 6-month Treasury Bill yield over the quarterly reporting period.

3.0 PFC FUND (252)

- A. Fund Purpose: This fund is for passenger facility charges revenue that is segregated per law.
- B. Estimated Fund Retention: Approximately \$60 million of the PFC fund will be retained for greater than one year with the remaining funds to be spent within a year.
- C. Maximum Maturity: Three years
- D. Target WAM: 1 to 2 years

- E. Appropriate Investments: Liquidity is essential to meet the monthly debt service payments to the Interest and Sinking Funds. Therefore, securities with active secondary markets and a high degree of marketability are preferred. Diversification by issuer is also preferred but shall be considered primarily as part of the overall portfolio.
- F. Yield Objective: Shall be to optimize interest earnings within policy guidelines and liquidity constraints.
- G. Benchmark: The 6-month Treasury Bill yield will be the benchmark.

4.0 BOND AND CONSTRUCTION FUNDS (32X and 33X)

- A. The investing of bond and construction proceeds is subject to policy limitations and the bond covenants. Where differences exist, the bond covenants will prevail. Bond proceeds are generally designated for capitalized interest payments and capital project (construction) expenditures. The investing strategy is different for the two types of funds.
 - 1) BOND FUNDS (32X)
 - (a) Fund Purpose: The bond funds the Airport may invest are used to pay capitalized interest on semi-annual debt service payments.
 - (b) Estimated Fund Retention: Six-months to two years
 - (c) Maximum Maturity: Two years
 - (d) Target WAM: 30 to 365 days
 - (e) Appropriate Investments: Subject to the restrictions of individual bond covenants, any investments authorized by policy except non-2a7 mutual funds are suitable for investment of Bond Funds. Liquidity is essential to meet capitalized interest debt service payments.
 - (f) Yield Objective: Shall be to optimize interest earnings within known cash flow requirements, policy guidelines and individual bond covenants.
 - (g) Benchmark: The benchmark for this fund is the 6-month Treasury Bill
 - 2) CONSTRUCTION FUNDS (33X)
 - (a) Fund Purpose: Pay for construction costs of capital projects.
 - (b) Estimated Fund Retention: Various project end dates.
 - (c) Maximum Maturity: Is not applicable because liquidity needs are tied to project end dates that vary.
 - (d) Target WAM: Is not applicable because maturities are tied to project end dates that vary.
 - (e) Appropriate Investments: Short and long-term investments allowed by policy including GICs and Repos.
 - (f) Yield Objective: Shall be to optimize interest earnings within known project liquidity requirements and within policy guidelines.
 - (g) Benchmark: 6 month Treasury Bill

5.0 INTEREST AND SINKING FUNDS (500s)

- A. Fund Purpose: The purpose of the Interest and Sinking (I&S) Funds is to meet semi-annual debt service obligations.
- B. Estimated Funds Retention: Short-term to meet semi-annual debt service payments
- C. Maximum Maturity: One year
- D. Target WAM: 90 – 180 days
- E. Appropriate Investments: Any short-term investments authorized by policy, except 2a7 mutual funds, are suitable for the Interest & Sinking Funds. Securities possessing active secondary markets and a high degree of marketability are preferred. Diversification by issuer is also preferred but shall be considered primarily as part of the overall portfolio.
- F. Yield Objective: The yield objective shall be to optimize interest earnings within policy guidelines and liquidity constraints.
- G. Benchmark: The benchmark for this fund shall be the average 3-month Treasury Bill yield over the quarterly reporting period.

6.0 DEBT SERVICE RESERVE FUNDS (600s)

- A. Fund Purpose: In case of an emergency, the Debt Service Reserve Fund will be used to make debt service payments.
- B. Estimated Funds Retention: Long-term
- C. Maximum Maturity: The maximum maturity is 5 years, however, funds should be available for bond call provisions and the final maturities of each bond issue.
- D. Target WAM: Shall be from 2 - 4 years depending on perceived market conditions.
- E. Appropriate Investments: Any investments authorized by policy, except Guaranteed Investment Contracts (GIC's) are suitable for the Debt Service Reserve Fund. Liquidity is not a primary concern, although securities possessing active secondary markets and a high degree of marketability are preferred. Issuer and maturity date diversification is also preferred, but shall be considered primarily as part of the overall portfolio.
- F. Yield Objective: Shall be to optimize interest earnings by extending portfolio maturities, thereby taking advantage of upward sloping yield curves, or locking in higher yields during periods of monetary policy easing.
- G. Benchmark for this fund shall be the average 2-Year Treasury Note yield over the quarterly reporting period.

Dallas/Fort Worth International Airport
INVESTMENT POLICY and STRATEGIES

Section Three: Approved Broker/Dealers

DFW INTERNATIONAL AIRPORT BOARD

2011 APPROVED BROKER/DEALERS

Bank of America Securities, Primary

Mail Code TX1-492-63-04
901 Main Street, Suite 6350
Dallas, TX 75202
Mark Tranchina & Julia Erickson
(214) 209-2816 & 2015

Rice Financial Products Co.

208 S. LaSalle Street,
Suite 1338
Chicago, IL 60604
Carol Mackoff or Ken Bruce
(877) 855-2739

**Bank of NY Mellon – Liquidity Direct
Money Market Portal****

Mellon Financial Markets
One Mellon Center, Suite 0475
Pittsburgh, PA 15258
Dave McGowan & Allison Luptak
(800) 762-3538

Stifel Nicolaus & Company Inc.,

5956 Sherry Lane,
Suite 875
Dallas, TX 75225
Mike Bell
(214) 706-9469

JP Morgan Securities, Primary

2200 Ross Avenue, 4th Floor
Dallas, TX 75201
Mike Minahan & Pam Steuben
(214) 965-2983

UBS Securities, LLC, Primary

100 Crescent Court, Suite 600
Dallas, TX 75201
James Madden & Nat Mosely
(214) 965-6501

Regal Securities

1700 Pacific Avenue, Suite 2000
Dallas, TX 75201
Ron Bostian
(972) 735-0086

Note: Only primary dealers are noted as such.

**BNY Mellon provides money market portal services only and may not be used for the purchase of securities unless a signed Broker/Dealer Certification is provided as required by the Texas PFIA.

S:\Cash and Investment Group\Operational\Broker Dealers\FY-10

Dallas/Fort Worth International Airport
INVESTMENT POLICY and STRATEGIES

Section Four: Approved Investment Training Sources

DFW INTERNATIONAL AIRPORT BOARD

2011 APPROVED INVESTMENT TRAINING SOURCES

- Government Treasurer's Organization of Texas
- Alliance of Texas Treasury Associations (TEXPO Sponsors)
- Texas Association of Counties
- Texas Municipal League
- University of North Texas Center for Public Management
- North Central Texas Council of Governments
- Patterson & Associates
- TXU - William P. Hobby Center for Public Service

Dallas/Fort Worth International Airport
INVESTMENT POLICY and STRATEGIES

Section Five: Texas 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 \$95 million in book value on May 1, 1995;

(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.

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; and

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

(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 person offering to engage in an investment transaction with an investing entity or to an investment

management firm under contract with an investing entity to invest or manage the entity's investment portfolio. For purposes of this subsection, a business organization includes investment pools and an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. 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 is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

(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 person who 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.

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 in a two-year period 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.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS. (a) Except as provided by Subsections (b) and (e), 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) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period 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.

(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. 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.

(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.

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.

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;

(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;

(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; and

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

(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.

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 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).

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](#), Sec. 1, eff. September 1, 2005.

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 obligations described by Section 2256.009(a)(1); and
- (3) requires the securities being purchased 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), 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.

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

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 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.

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

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.);

(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) is 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(b) and (c) 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 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.

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.

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.

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.

(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; and

(12) the performance history of the pool, including yield, average dollar-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 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;

(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 0.995 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.

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.

Sec. 2256.017. EXISTING INVESTMENTS. 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.

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 or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

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.

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](#), 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](#), Sec. 1, eff. September 1, 2009.

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](#), Sec. 1, eff. September 1, 2005.

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, prepared in compliance with generally accepted accounting principles, of each pooled fund group that states the:

(A) beginning market value for the reporting period;

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

(C) ending market value for the period; and

(D) fully accrued interest for the reporting period;

(5) 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;

(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.

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), 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.

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.

Dallas/Fort Worth International Airport
INVESTMENT POLICY and STRATEGIES

Section Six: Texas 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; or

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

(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.

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](#), 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. On receipt of an investment security, a custodian shall:

(1) immediately identify on its books and records, by book entry or another method, the pledge of the security to the public entity; and

(2) promptly issue and deliver to the appropriate public entity officer a trust receipt for the pledged security.

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

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.

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.

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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), 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](#), Sec. 1, eff.
September 1, 2009.