LOCAL GOVERNMENT CODE

TITLE 4. FINANCES

SUBTITLE B. COUNTY FINANCES

CHAPTER 117. DEPOSITORIES FOR CERTAIN TRUST FUNDS AND COURT REGISTRY FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 117.001. DEFINITIONS. In this chapter:

(1) "Bank" means a banking corporation or association, an individual banker, or a state or federal savings and loan association or savings bank.

(2) "Clerk" means a county clerk, a district clerk, or a county and district clerk.

(3) "Registry funds" means funds tendered to the clerk for deposit into the registry of the court.

(4) "Separate account" means funds transferred from a special account into a separate interest-bearing account.

(5) "Special account" means an account in a depository in which registry funds are placed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 552, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 1, eff. Sept. 1, 1997.

Sec. 117.002. TRANSFER OF UNCLAIMED FUNDS TO COMPTROLLER. Any funds deposited under this chapter, except cash bail bonds, that are presumed abandoned under Chapter 72, 73, or 75, Property Code, shall be reported and delivered by the county or district clerk to the comptroller without further action by any court. The dormancy period for funds deposited under this chapter begins on the later of:

(1) the date of entry of final judgment or order of dismissal in the action in which the funds were deposited;

(2) the 18th birthday of the minor for whom the funds were deposited; or

(3) a reasonable date established by rule by the comptroller to promote the public interest in disposing of

unclaimed funds.

Added by Acts 1991, 72nd Leg., ch. 153, Sec. 26, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 329, Sec. 2, eff. May 26, 1997; Acts 1997, 75th Leg., ch. 505, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1037, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 13.01, eff. Sept. 1, 1997.

Sec. 117.003. COMPLIANCE WITH FEDERAL TAX LAW FOR FUNDS HELD UNDER THIS CHAPTER. (a) If any funds deposited under this chapter are placed into an interest-bearing account, any person with a taxable interest in funds deposited to such account must submit appropriate tax forms and provide correct information to the district or county clerk so that the interest earned on such funds can be timely and appropriately reported to the Internal Revenue Service. The information and forms provided to the district or county clerk under this section are not subject to public disclosure except to the extent necessary to effectuate compliance with federal tax law requirements.

(b) The district or county clerk is authorized to pay any or all of the interest earned on funds deposited under this chapter, without court order, to the Internal Revenue Service to satisfy tax withholding requirements.

Added by Acts 1997, 75th Leg., ch. 505, Sec. 3, eff. Sept. 1, 1997.

SUBCHAPTER B. ESTABLISHMENT OF DEPOSITORY

Sec. 117.021. APPLICATIONS. (a) The commissioners court of a county shall select by the process provided by this subchapter or by Subchapter C, Chapter 262, a federally insured bank or banks in the county to be the depository for a special account held by the county clerk and the district clerks. The county shall enter a contract with the selected federally insured bank or banks for a two-year or four-year term. The original term can be renewed once for an additional two-year term. The contract may, on request by the clerk and approval of the commissioners court, include a provision that the funds in a special account earn interest. A request from the clerk that an account earn interest must be made,

in writing, to the commissioners court not later than the 30th day before the date the county gives notice under Section 117.022 and shall be entered in the minutes of the court.

(b) If the contract is for a four-year term, the contract shall allow the county to establish, on the basis of negotiations with the bank, new interest rates and financial terms of the contract that will take effect during the final two years of the four-year contract.

(c) On the renewal of a contract, the county may negotiate new interest rates and terms with the bank for the next two years in the same way and under the same conditions as provided by Subsection (b).

(d) A bank must file its application on or before a date set by the commissioners court. The application must be accompanied by a certified check or cashier's check for at least one-half of one percent of the average daily balance of the registry funds held by the county clerk and the district clerk during the preceding calendar year, as determined by the county clerk and the district clerk on or before the 10th day before the date the application is required to be filed. A certified check or cashier's check that complies with this section is a good-faith guarantee on the part of the applicant that if its application is accepted it will execute the bond required under this subchapter. If the bank selected as depository does not provide the bond, the county shall retain the amount of the check as liquidated damages and the county shall select another depository as provided by this subchapter.

(e) If for any reason a county depository is not selected under Subsection (a), the commissioners court, at any subsequent time after 20 days' notice, may select, by the process described by Section 117.023 or by negotiated bid, one or more depositories in the same manner as at the regular term.

(f) If the commissioners court selects a depository by the process provided by Subchapter C, Chapter 262, the depository may be selected by:

(1) competitive bidding; or

(2) another method under that subchapter that the county is qualified to use.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 326, Sec. 2, eff. June 5, 1991; Acts 1991, 72nd Leg., ch. 527, Sec. 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 65, Sec. 3, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 5, eff. June 15, 2007.

Sec. 117.022. NOTICE. A county shall advertise or give notice that the county will accept applications to be the depository for registry funds held by the county clerk and the district clerk in the same manner as notice is required under Section 116.022.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 505, Sec. 5, eff. Sept. 1, 1997.

Sec. 117.023. SELECTION OF DEPOSITORY. (a) At the meeting at which banks are to be selected to serve as the depository for registry funds held by the county clerk and the district clerk, the commissioners court shall enter the applications in the minutes of the court and select a depository.

(b) After a depository is selected, the commissioners court shall return the certified checks of the applicants that were not selected. The commissioners court shall return the check of the selected applicant only after the applicant files a bond that is approved by the commissioners court.

(c) The conflict of interests provisions of Section 131.903 apply to the selection of the depository.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 30, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 505, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 6, eff. June 15, 2007.

Sec. 117.024. QUALIFICATION AS DEPOSITORY. Within 30 days after the date a bank is selected as a depository under this subchapter, the bank must qualify to serve as the depository in the same manner as is required for the qualification of county depositories under Chapter 116.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989.

Sec. 117.025. DESIGNATION OF DEPOSITORY. (a) After a bank selected to be a depository under this subchapter qualifies under Section 117.024 and is selected by the commissioners court, the commissioners court shall by an order entered in its minutes designate the bank or banks as the depository for the registry funds.

(b) A designation under Subsection (a) is effective until the designation and qualification of a successor depository or until April 15 following the expiration of the contract, whichever is earlier. If the term of a depository ends before the designation and qualification of a successor, the depository shall pay to the clerk in whose name the account is carried all registry funds due or on deposit.

(c) A designated depository shall provide security for the funds deposited into the registry fund accounts in the same manner as Subchapter C, Chapter 116.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 899 (H.B. 2641), Sec. 7, eff. June 15, 2007.

Sec. 117.026. ADVERTISEMENT FOR AND SELECTION OF DEPOSITORY OUTSIDE THE COUNTY. (a) Subject to Sections 116.026 and 116.028, the commissioners court may select a federally insured bank or banks located outside the county to serve as the depository under this subchapter if:

(1) for any reason no bank located in the county

applies to be designated as the depository;

(2) an application is not made for the entire amount of the registry funds;

(3) the commissioners court rejects all the applications submitted;

(4) a depository selected by the commissioners court fails to qualify;

(5) a depository becomes insolvent; or

(6) a new depository is selected because of the failure of the regular depository to execute a new bond under Section 117.057.

(b) Before selecting a depository under Subsection (a), the commissioners court shall advertise for applications from banks located in this state by publishing a notice of the selection once a week for two consecutive weeks in a newspaper of general circulation published in the county. If such a newspaper is not published in the county, the commissioners court shall post the notice at the courthouse for two weeks. The commissioners court may also publish the notice in any newspaper outside the county for the same length of time.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 8, eff. Sept. 1, 1997.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1043 (S.B. 158), Sec. 4, eff. June 18, 2023.

Sec. 117.027. FAILURE TO SELECT DEPOSITORY. If the commissioners court has not selected a depository under this subchapter, a clerk holding money, an evidence of debt, an instrument of writing, or any other article deposited into the registry of the court pending the result of a legal proceeding shall seal the article in a secure package and deposit the package in an iron safe or a bank vault.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 9, eff. Sept. 1, 1997.

Sec. 117.028. APPLICATION OF COUNTY DEPOSITORY LAW. Except as otherwise expressly stated, the provisions of Chapter 116 relating to county depositories also apply to a depository selected under this chapter.

Added by Acts 1997, 75th Leg., ch. 505, Sec. 10, eff. Sept. 1, 1997.

SUBCHAPTER C. DEPOSITORY ACCOUNTS

Sec. 117.052. DEPOSITS OF REGISTRY FUNDS BY COUNTY AND DISTRICT CLERKS. (a) If a depository has been selected under Subchapter B, a county clerk or a district clerk who is to have for more than three days legal custody of money deposited in the registry of the court pending the result of a legal proceeding shall deposit the money in the depository.

(b) The funds deposited shall be carried at the depository selected under this chapter as a special account in the name of the clerk making the deposit.

(c) A clerk is responsible for funds deposited into the registry fund from the following sources:

(1) funds of minors or incapacitated persons;

(2) funds tendered in an interpleader action;

(3) funds paid in satisfaction of a judgment;

(4) child support funds held for more than three days;

(5) cash bonds;

(6) cash bail bonds;

(7) funds in an eminent domain proceeding; and

(8) any other funds tendered to the clerk for deposit into the registry of the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 11, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 292, Sec. 1, eff. May 23, 2001.

Sec. 117.0521. CUSTODIANSHIP. A clerk shall act only in a custodial capacity in relation to a registry fund, a special account, or a separate account. A clerk is not a trustee for the

beneficial owner and does not assume the duties, obligations, or liabilities of a trustee for a beneficial owner.

Added by Acts 1997, 75th Leg., ch. 505, Sec. 12, eff. Sept. 1, 1997.

Sec. 117.053. WITHDRAWAL OF FUNDS. (a) If a commissioners court selects a new depository under Subchapter B, when the depository qualifies, the county clerk and the district clerk shall transfer the funds in a special account from the old depository to the new depository, and the clerks may draw checks on the accounts for this purpose.

(b) Except as provided by Subsection (a), a clerk may not draw a check on special account funds held by a depository except to pay a person entitled to the funds. The payment must be made under an order of the court of proper jurisdiction in which the funds were deposited except that an appeal bond shall be paid without a written order of the court on receipt of mandate or dismissal and funds deposited under Chapter 1355, Estates Code, may be paid without a written order of the court. The clerk shall place on the check the style and number of the proceeding in which the money was deposited with the clerk.

(c) The clerk shall transfer any registry funds into a separate account when directed to by a written order of a court of proper jurisdiction or when the clerk is required to under Chapter 1355, Estates Code. The clerk shall transfer the funds into a separate account in:

(1) interest-bearing deposits in a financial institution doing business in this state that is insured by the Federal Deposit Insurance Corporation;

(2) United States treasury bills;

(3) an eligible interlocal investment pool that meets the requirements of Sections 2256.016, 2256.017, and 2256.019, Government Code; or

(4) a no-load money market mutual fund, if the fund:

(A) is regulated by the Securities and Exchange Commission;

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

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

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 13, eff. Sept. 1, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.050, eff. September 1, 2017.

Sec. 117.054. COUNTY EXPENSES PAID FROM INTEREST. (a) If a special or separate account earns interest, the clerk, at the time of withdrawal, shall pay in a manner directed by a court with proper jurisdiction the original amount deposited into the registry of the court and any interest credited to the account in the manner calculated in Subsection (b).

(b) The interest earned on a special account or a separate account shall be paid in the following amounts:

(1) 10 percent of the interest shall be paid to the general fund of the county to compensate the county for the accounting and administrative expenses of maintaining the account; and

(2) 90 percent of the interest shall be credited to the special or separate account.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 505, Sec. 14, eff. Sept. 1, 1997.

Sec. 117.055. COUNTY EXPENSES PAID FROM FEES. (a) Except as provided by Subsection (a-1), to compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed $50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section.

(a-1) A clerk may not deduct a fee under Subsection (a) from

a withdrawal of funds generated by the collection of a cash bond or cash bail bond if in the case for which the bond was taken:

(1) the defendant was found not guilty after a trial or appeal; or

(2) the complaint, information, or indictment was dismissed without a plea of guilty or nolo contendere being entered.

(a-2) On the request of a person to whom withdrawn funds generated by the collection of a cash bond or cash bail bond were disbursed, the clerk shall refund to the person the amount of the fee deducted under Subsection (a) if:

(1) subsequent to the deduction, a court makes or enters an order or ruling in the case for which the bond was taken; and

(2) had the court made or entered the order or ruling before the withdrawal of funds occurred, the deduction under Subsection (a) would have been prohibited under Subsection (a-1).

(b) A fee collected under this section shall be deposited in the general fund of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 16(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 15, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 119, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2021, 87th Leg., 2nd C.S., Ch. 11 (S.B. 6), Sec. 19, eff. December 2, 2021.

Sec. 117.056. OBLIGATIONS PAYABLE AT COUNTY SEAT. (a) A depository selected under Subchapter B shall pay a check drawn by a county or district clerk against funds deposited in the clerk's name on presentment of the check at the county seat if the funds subject to the check are in the possession of the depository.

(b) If the depository is not located at the county seat, the depository shall file a statement with the county clerk of the county designating a place at the county seat where, and a person by whom, deposits by the clerks will be received and checks drawn on the depository will be paid. The depository shall pay a check on

presentment at the designated place if the depository has sufficient funds credited to the applicable account.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989.

Sec. 117.057. NEW BOND. (a) A commissioners court may require a depository selected under Subchapter B to execute a new bond whenever the commissioners court considers it necessary for the protection of the county clerk's and the district clerk's registry funds.

(b) If a depository does not file a new bond required by an order of the commissioners court within five days after the date a copy of the order is served on the depository, the commissioners court may select another depository in the manner provided by Subchapter B.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 16, eff. Sept. 1, 1997.

Sec. 117.058. ACCOUNTING FOR AND DISBURSING REGISTRY FUNDS IN COUNTIES WITH POPULATION OF 190,000 OR MORE. (a) This section applies to a county with a population of 190,000 or more.

(b) If the commissioners court of a county provides a depository for the registry funds of the county clerk or the district clerk, those officers shall make reports under oath to the county auditor to properly reflect all registry funds received and disbursed by the officer, including all money remaining on hand at the time of the report. The county auditor shall prescribe the form and frequency of the report.

(c) Each check issued for the disbursement of the funds must be issued in accordance with the laws providing for registry fund depositories. Each check must be signed according to procedure established by the county auditor before delivery or payment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 505, Sec. 17, eff. Sept. 1, 1997.

SUBCHAPTER D. LIABILITIES AND PENALTIES

Sec. 117.081. LIABILITY OF COUNTY AND DISTRICT CLERKS. (a) A county clerk or a district clerk is not responsible for a loss of registry funds resulting from the failure or negligence of a depository.

(b) This section does not release a county clerk or a district clerk from:

(1) liability for a loss of registry funds resulting from the clerk's official misconduct, negligence, or misappropriation of the funds; or

(2) responsibility for keeping the registry funds safe until the clerk deposits them in a depository selected under Subchapter B.

(c) After a county clerk or a district clerk deposits in a depository selected under Subchapter B the registry funds held by the clerk, the clerk is relieved of the responsibility for keeping the funds secure.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 18, eff. Sept. 1, 1997.

Sec. 117.083. LOSS OF REGISTRY FUNDS. If registry funds held by a county clerk or a district clerk and deposited by the county with a depository selected under Subchapter B are lost for any reason, including a loss due to the insolvency of the depository, the county is liable to the rightful owner of the funds for the full amount of the funds due the owner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 19, eff. Sept. 1, 1997.

Sec. 117.084. DEPOSITORY TO PAY CHECK ON PRESENTMENT. A depository selected under Subchapter B shall pay a check drawn against funds deposited with the depository in a special or separate account on presentation of the check if the funds that are subject to the check are in the possession of the depository.

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

by Acts 1989, 71st Leg., ch. 1, Sec. 17(d), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 505, Sec. 20, eff. Sept. 1, 1997.

SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO FUNDS PAID INTO COURT REGISTRY IN COUNTY WITH POPULATION OF MORE THAN 1.3 MILLION

Sec. 117.111. SUBCHAPTER APPLICABLE TO COUNTY WITH POPULATION OF 1.3 MILLION OR MORE. This subchapter applies only to a county with a population of 1.3 million or more.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 477 (S.B. 490), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1183 (H.B. 3637), Sec. 2, eff. September 1, 2009.

Sec. 117.112. MONEY AFFECTED. This subchapter applies to the following kinds of money paid into the registry of any court for which a clerk is or may become responsible:

(1) funds of minors or incapacitated persons;

(2) funds tendered in connection with a bill in interpleader; or

(3) any other funds.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 292, Sec. 2, eff. May 23, 2001.

Sec. 117.113. DEPOSITORY CONTRACT. The commissioners court of the county collecting the funds may contract with one or more banks in the county for the deposit of the funds in a special account to be called the "registry fund."

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.114. NOTICE. Once each week for at least three consecutive weeks before the date the contract will be awarded, the

county judge shall place over the judge's name in a newspaper published in the county a notice that the commissioners court intends to make the contract. A notice shall also be posted at the courthouse door of the county.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.115. APPLICATIONS. A bank in the county that wants to be a special depository for the registry fund is subject to the same application provisions as those prescribed by Section 116.023 for the applicants for the county depository contract.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.116. SELECTION OF DEPOSITORY. At the time and place stated in the notice, the commissioners court shall select a special depository for the registry fund in accordance with the same provisions as those prescribed by Section 116.024 for the selection of a county depository.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.117. QUALIFICATION AS DEPOSITORY. A bank selected as a special depository for the registry fund must qualify as the depository in accordance with the same provisions as those prescribed by Subchapter C, Chapter 116, for the qualification as a county depository.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989.

Sec. 117.118. APPLICATION OF COUNTY DEPOSITORY LAW. Matters regarding special depositories for the registry fund are subject to the same provisions as those prescribed by Chapter 116 regarding county depositories, including Sections 116.026 and 116.028.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 752, Sec. 1, eff. Aug.

26, 1991.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1043 (S.B. 158), Sec. 5, eff. June 18, 2023.

Sec. 117.119. DEPOSIT OF FUNDS. Money paid into the registry of the court shall be deposited by a clerk into the registry fund at the special depository.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 752, Sec. 1, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 196, Sec. 2, eff. Aug. 30, 1999.

Sec. 117.120. CUSTODIANSHIP. A clerk shall act only in a custodial capacity regarding the registry fund, is not considered to be a trustee for the beneficial owner, and is not considered to have assumed the duties, obligations, or liabilities of a trustee for the beneficial owner.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 3, eff. Aug. 30, 1999.

Sec. 117.121. DISBURSEMENT OF FUNDS. (a) Money may be paid from the registry fund only on checks or drafts signed by a clerk on the written order of the court with proper jurisdiction, except that the clerk may make a payment without court order for unpaid court costs from a cash bond deposited in connection with an appeal after the appellate court issues its mandate in the appeal if the costs remain unpaid for 45 days after the mandate is issued.

(b) All checks or drafts issued for the disbursement of the registry fund must be submitted to the county auditor for the auditor's countersignature before delivery or payment. The county auditor may countersign the checks only on written evidence of the order of the judge of the court in which the funds have been deposited, authorizing the disbursement of the funds.

(c) Notwithstanding Subsections (a) and (b), a disbursement under an order of a court in which registry funds have been deposited may be made by electronic transfer if:

(1) the designated recipient of the money submits to a clerk a written request for the transfer;

(2) the clerk gives written approval for the transfer; and

(3) a county auditor countersigns the approval.

(d) A clerk may charge a reasonable fee, subject to the approval of the recipient of the money, for an electronic transfer of a disbursement from a registry fund.

Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Renumbered from Sec. 117.122 by Acts 1991, 72nd Leg., ch. 752, Sec. 2, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 505, Sec. 21, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 4, eff. Aug. 30, 1999.

Sec. 117.122. INTEREST. (a) The interest derived from money on deposit in the registry fund shall be paid as earned as follows:

(1) a sum equal to 10 percent of the interest shall be paid into the general fund of the county to reimburse the county for the expenses of maintaining the registry fund; and

(2) the remaining 90 percent of the interest shall be credited to the registry fund.

(b) For each withdrawal, a clerk shall pay out the original amount deposited in the registry of the court and 90 percent of the interest earned on that amount at the time and in the manner directed by the court with proper jurisdiction.

Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Renumbered from Sec. 117.123 and amended by Acts 1991, 72nd Leg., ch. 752, Sec. 3, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 5, eff. Aug. 30, 1999.

Sec. 117.123. AUDIT. (a) The registry funds shall be audited at the end of each county fiscal year by the county auditor or by an independent certified public accountant or a firm of independent certified public accountants of recognized integrity and ability selected by the commissioners court.

(b) A written report of the audit shall be delivered to the

county judge, each county commissioner, and a clerk not later than the 180th day after the last day of the fiscal year. A copy of the audit shall be kept at the clerk's office and shall be open to inspection by any interested person during normal office hours. The cost of the audit shall be paid by the county.

Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Renumbered from Sec. 117.124 and amended by Acts 1991, 72nd Leg., ch. 752, Sec. 4, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 6, eff. Aug. 30, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 411 (S.B. 356), Sec. 1, eff. June 14, 2013.

Sec. 117.124. LIABILITY OF CLERK. (a) A clerk is not responsible for:

(1) a loss of funds resulting from the failure or negligence of a depository; or

(2) the safety of funds after deposit in a depository selected under this subchapter.

(b) A clerk is responsible for:

(1) a loss of funds resulting from the clerk's official misconduct, negligence, or misappropriation of the funds; and

(2) the safety of funds before deposit in a depository selected under this subchapter.

Acts 1989, 71st Leg., ch. 1, Sec. 17(b), eff. Aug. 28, 1989. Renumbered from Sec. 117.126 and amended by Acts 1991, 72nd Leg., ch. 752, Sec. 5, eff. Aug. 26, 1991. Amended by Acts 1999, 76th Leg., ch. 196, Sec. 7, eff. Aug. 30, 1999.

Sec. 117.125. TRANSFER OF MONEY. (a) In the absence of a contrary order from a court having jurisdiction over the registry fund, a clerk may transfer money deposited in the fund into a separate account.

(b) A clerk shall transfer all money deposited in a registry fund under Chapter 1355, Estates Code, into a separate account.

(c) Money transferred into a separate account under this section must be:

(1) transferred into an account authorized for investment under Chapter 2256, Government Code, by a local government or investment pool; and

(2) invested according to the investment officer designated under Section 2256.005, Government Code, by the investing entity of which the county is a member.

(d) A transfer of money into a separate account under this section is exempt from the requirements prescribed by Section 117.121 for disbursements from registry funds.

(e) An investment of money transferred from a registry fund under this section is subject to the limitations, policies, and standards of care provided by Chapter 2256, Government Code.

Added by Acts 1999, 76th Leg., ch. 196, Sec. 8, eff. Aug. 30, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.051, eff. September 1, 2017.