LOCAL GOVERNMENT CODE
TITLE 4. FINANCES
SUBTITLE C. FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE TYPE OF
LOCAL GOVERNMENT
CHAPTER 131. DEPOSITORY PROVISIONS AFFECTING FUNDS OF
MUNICIPALITIES, COUNTIES, AND OTHER LOCAL GOVERNMENTS

SUBCHAPTER A. SPECIAL DEPOSITORY

Sec. 131.001. SPECIAL DEPOSITORY AUTHORIZED. If a
financial institution that is a depository under state law for the
public funds of a county, municipality, or district suspends
business or is taken charge of by a state or federal bank regulatory
agency, the local government authority authorized to select the
original depository may select by contract a special depository for
the public funds in the suspended financial institution.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended
by Acts 1999, 76th Leg., ch. 344, Sec. 5.010, eff. Sept. 1, 1999.

Sec. 131.002. DUTIES OF SPECIAL DEPOSITORY. The special
depository shall assume the payment of the amount of public funds
due by the suspended bank on the date of its suspension, including
interest to that date, and shall pay that amount to the designated
local government authority in accordance with the contract entered
into by the special depository.
Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

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

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

(c) The contract must set the rate of interest applicable to
the funds placed in the special depository under this subchapter
unless the parties agree that the funds are not to bear interest.
Sec. 131.004. BOND. (a) To secure the performance of a special depository contract, the special depository shall execute a bond, or bonds in the case of installments, with the same character of sureties required for regular depository bonds.

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

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

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

(2) approve a bond for the deposit contract.

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

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

Sec. 131.901. OUT-OF-STATE DEPOSITORY PROHIBITED. (a) The governing body of a political subdivision, including a county, municipality, school district, or other district, may not designate a financial institution located outside the state as a depository
for funds under the governing body's jurisdiction. An out-of-state financial institution is not considered to be located outside this state to the extent the governing body designates a branch office of such institution that is located in this state.

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


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

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

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

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

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

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

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

(b) This section may not be construed as changing or
superseding a conflicting provision in the charter of a home-rule municipality.

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