



## DEPARTMENT OF FINANCE

### Investment Policy

#### I. POLICY

It is the policy of Howard County, Maryland (hereinafter referred to as “The County”) to invest public funds in a manner which will conform to all State of Maryland and County statutes governing the investment of public funds while meeting its daily cash flow demands and providing a return at least equal to the three month Treasury bill yield. The County may not borrow money for the sole purpose of investment.

Any request or directive to diverge from this policy shall be reported, immediately, to the Director of Finance or County Auditor, as appropriate.

#### II. SCOPE

This investment policy applies to all cash and investments of the County that are accounted for in the County’s Comprehensive Annual Financial Report and include:

- A. General Fund
- B. Special Revenue Funds
- C. Capital Project Funds (Including Bond Funds)
- D. Enterprise Funds
- E. Debt Service Funds
- F. Special Assessment Funds
- G. Internal Service Funds.
- H. Trust and Agency Funds
- I. Any new funds as provided by County ordinance.

This policy does not cover the financial assets of the Howard County Retirement Plan and the Howard County Police & Fire Employees Retirement Plan. There is a separate investment policy which governs those assets.

### **III. PRUDENCE**

- A. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.
- B. The standard of prudence to be use by the investment officer shall be the “prudent person” standard and shall be applied in the context of managing the overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall not be held personally responsible for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

### **IV. OBJECTIVES**

The primary objectives, in priority order, of the County’s investment activities shall be:

- A. Safety: Safety of principal is the foremost objective of the investment program. Investments of the County shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, the County will diversify its investments by investing funds among a variety of securities offering independent returns and financial institutions. Third party collateralization safekeeping, and delivery versus payment will also be required.

and

Liquidity: The County’s investment portfolio will remain sufficiently liquid to enable the County to meet all operating requirements which might be reasonably anticipated.

- B. Yield: The County’s investment portfolio shall be designed with the objective of attaining a rate of return at least equal to U.S. Treasury bill yields through budgetary and economic cycles. A Treasury bill yield benchmark was selected after considering the County’s investment risk constraints and the cash flow characteristics of the portfolio. Generally, the three or six month Treasury yield that most closely matches the weighted average maturity of the portfolio shall be used.

### **V. DELEGATION OF AUTHORITY**

- A. Authority to manage the County’s investment program is derived from state law (Article 95. and Title 6 of the Finance and Procurement Article of the Annotated Code of Maryland) and the Howard County Code Title 11, Subtitle 1.

The Department of Finance, under direction of the Director of Finance, has responsibility for the administration of financial affairs of the County, including the custody, safekeeping and investing, as permitted by law, of all fluids and securities belonging to or by law deposited with, distributed to or handled by the County.

- B. The Director of Finance shall develop and maintain written investment procedures for the operation of the investment program consistent with this policy. Such procedures shall include:
  - 1. Explicit delegation of authority to investment officers responsible for investment transactions. No investment officer may engage in an investment transaction except as provided under the terms of this policy and the procedure established by the Director of Finance.
  - 2. Procedures should include reference to safekeeping, Public Securities Administration (PSA) master repurchase agreements, wire transfer agreements, banking service contracts and collateral/depository agreements.

## **VI. ETHICS AND CONFLICTS OF INTEREST**

Investment officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Investment officers and employees shall disclose to the Howard County Ethics commissions, in a Howard County, Maryland Financial disclosure statement, any financial interests in financial institutions that conduct business within this jurisdiction, and any personal financial/investment positions that could be related to the performance of the County's portfolio. The Director of Finance shall review these statements annually to ensure there are no conflicts of financial interests.

## **VII. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS**

The County will maintain a list of financial institutions and brokers/dealers authorized to provide investment services. The following is a breakdown of the types of institutions and dealers the County deals with along with the type of investment transactions handled by those institutions. Described below are the types of institutions and dealers the County may utilize in this investment strategy.

### **A. Primary Government Dealers/Other Securities Dealers:**

#### **1. Primary Government Dealers**

The Federal Reserve Bank of New York designates primary government dealers in government securities. The County can purchase all authorized and suitable investments as listed in Section VIII of this policy, except for certificates of deposit, from primary government dealers. The County may only enter into repurchase agreements with dealers if a signed PSA Master Repurchase Agreement is in effect.

## 2. Other Security Dealers:

The County may enter into repurchase agreements with non-primary dealers if certain criteria are met. The dealer must:

- a. Be a Securities and Exchange Commission (SEC) registered Government Securities Dealer and
- b. maintain at least \$100 million in “excess net capital” per current audited financial statements
- c. be approved by the Director of Finance and
- d. have a signed PSA Master Repurchase agreement in effect.

The County may also execute a repurchase agreement with the County’s lead depository bank.

The County may purchase U.S. Government securities, U.S. Government agency securities, U.S. Government Instrumentality Securities (also known as government sponsored enterprises, or GSEs) commercial paper and bankers acceptances from dealers other than primary government dealers and from dealer banks which market these securities, provided that they qualify under Securities & Exchange Commission Rule 15C3-1 (uniform net capital rule).

## 3. Reporting and Compliance

All approved financial institutions and brokers/dealers must supply the Director of Finance with:

- a. Annual audited financial statements
- b. Proof of National Association of Security Dealers certification
- c. Trading Resolution
- d. Proof of registration with State of Maryland
- e. All dealers must agree to the County’s policy of delivery-versus-payment as described in Section XI of this policy
- f. Acknowledgement that they have received a copy of this policy and agree to comply with its terms

### B. Commercial Banks:

The County can only purchase Certificates of Deposit from any federally insured bank in the State of Maryland or any federally insured savings and loan association in the State of Maryland. Commercial Banks and savings and loan associations must have a short-term rating of at least investment grade from the appropriate Bank rating agencies. All banks shall provide their most recent Consolidated Report of Condition (“call” report) at the request of the County.

C. Money Market Treasury Funds and Investment Pools:

The fund must be registered with Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. §80 a-1 et seq., as amended, and must comply with Rule 2A-7. The funds must have a AAA rating from at least one nationally recognized rating agency.

In addition to commercial investment pools/mutual funds, the County may invest in the Maryland Local Government Investment Pool (MLGIP) as authorized by State statute (Article 95, Section 22) and County Resolution 102-2000.

D. Social Investing:

From time to time, the County may invest in instruments offered by community and minority financial institutions. All terms and relationships will be fully disclosed in the monthly investment schedule provided to the County Executive and the County Council.

**VIII. AUTHORIZED AND SUITABLE INVESTMENTS:**

The County is empowered by State statute (Article 95, and State Finance Procurement Article, Section 6-222) to invest in specific types of securities, which include:

- A. U.S. Treasury Obligations
- B. U.S. Government Agency and U.S. Government instrumentality securities
- C. Repurchase Agreements
- D. Certificates of Deposit which are collateralized or federally insured
- E. Bankers' Acceptances
- F. Commercial Paper
- G. Investment Pools/Mutual Funds/money market funds

All repurchase agreements will be governed by a Master Repurchase Agreement signed by the appropriate officials of the County and the broker/dealer.

**IX. INVESTMENT POOLS/MUTUAL FUNDS**

A thorough investigation of a pool/fund is required prior to investing, and verification of AAA rating shall be performed annually. A questionnaire will be developed which will answer the following general questions:

- A. A description of eligible investment securities, and a written statement of investment policy and objectives.
- B. A description of interest calculations and distribution, and how gains and losses are treated.
- C. A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.

- D. A description of who may invest in the program, how often, what size deposits and withdrawals are allowed.
- E. A schedule for receiving statements and portfolio listings.
- F. Are reserves, retained earnings, etc. utilized by the pool/fund?
- G. A fee schedule, and when and how it is assessed.
- H. Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?
- I. Does the pool or fund have an AAA rating from at least one nationally recognized rating agency?
- J. Does the pool or fund operate in accordance with Rule 2A-7 of the Investment Company Act of 1940?

## **X. COLLATERALIZATION**

- A. Collateralization will be required on certificates of deposit and repurchase agreements. The collateralization level will be at least 102% of market value of principal and accrued interest in anticipation of market changes and to provide a level of security for all funds.
- B. Collateral will always be held by an independent third party with whom the County has a current custodial agreement. The independent third party custodian will provide to the County a list of all securities held for the County at the end of each month and details of each transaction occurring during the month.
- C. Acceptable collateral is specified under Section 6-202 of Title 6 of the State Finance and Procurement Article of the Annotated Code of Maryland. However, the third party custodian, who holds the collateral, has the right to reject otherwise acceptable collateral based on their discretion concerning market conditions. The County grants the right to substitute collateral.

## **XI. SAFEKEEPING AND CUSTODY**

All security transactions, including collateral for repurchase agreements, entered into by the County shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by a third party custodian designated by the Director of Finance.

## **XII. DIVERSIFICATION IN AUTHORIZED & SUITABLE INVESTMENTS**

The County will diversify to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions or maturities. Maryland state law pertaining to authorized instruments is attached.

	Maximum Percent of
A. Diversification by Instrument	Portfolio
1. U.S. Treasury Obligations	100%
2. U.S. Government Agency and U.S. Government —Sponsored instrumentalities	90%
3. Repurchase Agreements (Master Repurchase Agreement Required)	90%
4. Collateralized Certificates of Deposit (Only Maryland commercial Banks)	5%
5. Bankers' Acceptances	30%
BA's from domestic banks which also include the United States affiliates of large international banks. Short term rating of A1 from Standard and Poor's Corporation or P1 from Moody's Investor Service or F1 from Fitch Investor Service.	
6. Commercial Paper	5%
Must have Short term rating of A1 from Standard and Poor's Corporation or P1 from Moody's Investor Service or F1 from Fitch Investor Service.	
7. Money Market Mutual Funds	60%
B. Diversification by Institution/Broker	
No more than 40% of the total investment portfolio will be invested through a single broker, dealer or other financial institution.	

### **XIII. MAXIMUM MATURITIES**

The majority of the investments of the County will have a maturity of one year or less in order to meet the objective of the County's investment activities and meet the County's operating cash flow needs. However, a portion of the portfolio may contain investments with maturities up to five years if safety and liquidity standards of the portfolio are met. The investments in long-term maturities will be limited to U.S. Treasury Obligations and to U.S. Government Agency and U.S. Government Sponsored Instrumentalities. This section of the investment policy does not pertain to the Agricultural Land Program where U.S. Treasury stripped securities with long maturities are purchased. See Department of Finance Policy 5.0206 "Accounting and Financial Reporting for the Agricultural Land Preservation Program" for details.

#### **XIV. INTERNAL CONTROLS**

The Director of Finance shall establish a system of internal controls. The controls shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and investment officers of the County. The internal controls of the investment operation are audited as part of the annual financial audit conducted by an external auditor.

#### **XV. PERFORMANCE STANDARDS**

The investment strategy is passive as the County intends to hold all securities until maturity. Short term U.S. Treasury Bill yields were selected as the benchmark to gauge the County's investment portfolio performance. This benchmark is described in Section IV.B. This benchmark comparison will be included in the monthly investment report.

#### **XVI. REPORTING REQUIREMENTS**

- A. The Director of Finance shall provide a monthly investment report to the County Executive, the County Council, the County Auditor, the Chief Administrative Officer, the Budget Administrator and the Office of Public Information which will include data on investment instruments being held, as well as any narrative necessary to provide a clear picture of the status of the current investment portfolio. This report should also include discussions on changes to investment strategies and significant events or changes in the marketplace and shall be issued by the end of the subsequent month.
- B. Schedules and charts in the monthly report will include the following:
  1. Highlights for the month.
  2. Portfolio yield.
  3. Percentage of the portfolio by type and broker compared to authorized diversification percentages.
  4. Investments and interest income by fund.
  5. Comparison of current year and prior year portfolio balances.
  6. A listing of individual securities held at the end of the reporting period by authorized investment type, including the coupon, discount or earnings rate (yield), average life and the purchase and final maturity dates for each investment.
  7. Book value versus market value for securities with a final maturity greater than one year from the date of the report.
  8. Comparison of current yield to benchmark yield.



- C. Copies of the policy and the monthly investment report are available upon request from the Howard County Department of Finance, 3430 Court House Drive, Ellicott City, Maryland 21043.

## **XVII. INVESTMENT POLICY ADOPTION**

Per Article 95, Section 22F of the Annotated Code of Maryland, the Investment Policy must be adopted by resolution of the Howard County Council and a certified copy sent to the State Treasurer's office.

Any changes to the policy must be approved by resolution of the Council.

## **XVIII. GLOSSARY**

Because this Policy is to be available to the public as well as the County, it is important that a glossary of related terminology be part of the policy.

---

Dale B. Neubert  
Director of Finance

Dated: May 13, 2003

T:\ Director's Office\Financial Management\Investment Policy. doc

## GLOSSARY

**AGENCIES:** Federal agency securities and/or Government-sponsored enterprises.

**ASKED:** The price at which securities are offered.

**BANKERS' ACCEPTANCE (BA):** A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BENCHMARK:** A comparative base for measuring the performance or risk tolerance of the investment portfolio. A benchmark should represent a close correlation to the level of risk and the average duration of the portfolio's investments.

**BID:** The price offered by a buyer of securities (When you are selling securities, you ask for a bid.) See Offer.

**BROKER:** A broker brings buyers and sellers together for a commission.

**CERTIFICATE OF DEPOSIT (CD):** a time deposit with a specific maturity evidenced by a certificate. Large-denomination cd's are typically negotiable.

**COLLATERAL:** Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR):** The official annual report for Howard County, Maryland. It includes Government-wide financial statements and fund financial statements prepared in conformity with GAAP. It also

includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and a detailed Statistical Section.

**COUPON:** (a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

**DEALER:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

**DEBENTURE:** A bond secured only by the general credit of the issuer.

**DELIVERY VERSUS PAYMENT:** There are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**DERIVATIVES:** (1) Financial instruments whose return profile is linked to, or derived from, the movement of one or more underlying index or security, and may include a leveraging, factor, or (2) financial contracts based upon notional amounts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities).

**DISCOUNT:** The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U.S. Treasury Bills.

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** A federal agency that insures bank deposits, currently up to \$100,000 per deposit.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**FEDERAL HOME LOAN BANKS (FHLB):** Government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLBs is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

**FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA):** FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HOD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae,

as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

**FEDERAL OPEN MARKET COMMITTEE (FOMC):** Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

**FEDERAL RESERVE SYSTEM:** The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA OR Ginnie Mae):** Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FmHA mortgages. The term "pass throughs" is often used to describe Ginnie Maes.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is

narrow and reasonable size can be done at those quotes.

**LOCAL GOVERNMENT INVESTMENT POOL (LGIP):** The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MASTER REPURCHASE AGREEMENT:** A written contract covering all future transactions between the parties to repurchase — reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

**MONEY MARKET:** The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

**OFFERS:** The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See Asked and Bid.

**OPEN MARKET OPERATIONS:** Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open

market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**PORTFOLIO:** Collection of securities held by an investor.

**PRIMARY DEALER:** A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC) registered securities broker-dealers, banks, and a few unregulated firms.

**PRUDENT PERSON RULE:** An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state—the so-called legal list. In other states the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**QUALIFIED PUBLIC DEPOSITORIES:** A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond the current income return.

**REPURCHASE AGREEMENT (RP OR REPO):** A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the

“seller” money for the period of the agreement and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank’s vaults for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**SECURITIES & EXCHANGE COMMISSION:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC RULE 15C3-1:** See Uniform Net Capital Rule.

**STRUCTURED NOTES:** Notes issued by Government Sponsored Enterprises (FHLB, FNMA, SLMA, etc.) and Corporations which have imbedded options (e.g., call features, step-up coupons, floating rate coupons, derivative-based returns) into their debt structure. Their market performance is impacted by the fluctuation of interest rates, the volatility of the imbedded options and shifts in the shape of the yield curve.

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

**TREASURY NOTES:** Medium-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

**UNIFORM. NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**TREASURY BONDS:** Long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than 10 years.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. (b) **NET YIELD or YIELD TO MATURITY** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

## **Article - State Finance and Procurement**

### **§ 6-201.**

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Banking institution" means an institution that is incorporated under the laws of the State as a State bank, trust company, or savings bank.
- (c) "Collateral" means collateral that is listed under § 6-202 of this subtitle.
- (d) "Deposit insurance" means insurance by:
  - (1) the Federal Deposit Insurance Corporation; or
  - (2) the Resolution Trust Corporation created under § 21A of the Federal Home Loan Bank Act (12 U.S.C. § 1441a.).
- (e) "Financial institution" means:
  - (1) any banking institution;
  - (2) any national banking association;
  - (3) an institution that is incorporated under the laws of any other state as a bank; and
  - (4) an institution that is incorporated under the laws of this State or of the United States as a savings and loan association.
- (f) "National banking association" means an institution that is incorporated under federal law as a bank.
- (g) "State money" for purposes of §§ 6-209 and 6-210 of this subtitle includes moneys in a bank account maintained under the control of an employee or official of the clerk of the court or register of wills.

### **§ 6-202.**

Collateral that may be used under this subtitle shall be:

- (1) an obligation of the United States or any of its agencies;
- (2) an obligation guaranteed by the United States or by any of its agencies;
- (3) an obligation insured by the United States;
- (4) an obligation of the State or any of its units or instrumentalities;
- (5) an obligation of a county of the State or any of its agencies;

- (6) an obligation of a municipal corporation in the State or any of its agencies;
- (7) an obligation of any other governmental authority in the State;
- (8) an obligation of the Inter-America Development Bank;
- (9) an obligation of the World Bank;
- (10) an obligation of the following government-sponsored enterprises:
  - (i) the Federal Home Loan Bank System;
  - (ii) the Federal Home Loan Mortgage Corporation;
  - (iii) the Federal National Mortgage Association;
  - (iv) the Farm Credit System;
  - (v) the Federal Agricultural Mortgage Corporation; and
  - (vi) the Student Loan Marketing Association;
- (11) a surety bond if:
  - (i) subject to the terms and conditions of the bond, it is irrevocable and absolute;
  - (ii) the surety bond is issued by an insurance company authorized to do business in this State;
  - (iii) the issuer of the surety bonds does not provide surety bonds for any one financial institution in an amount that exceeds 10% of the surety bond insurer's policyholders' surplus and contingency reserve, net of reinsurance; and
  - (iv) the claims-paying ability of the authorized insurance company is rated, at all relevant times, in the highest category by at least two nationally recognized rating agencies acceptable to the Treasurer; or
- (12) an obligation or security of, or other interest in, any open-end or closed-end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., if:
  - (i) the portfolio of the open-end or closed-end management type investment company or investment trust is limited to direct obligations of the United States government and to repurchase agreements fully collateralized by United States government obligations; and
  - (ii) the open-end or closed-end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian.

**§ 6-222.**

- (a) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(1) an obligation for which the United States has pledged its faith and credit for the payment of the principal and interest;

(2) an obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress;

(3) a repurchase agreement collateralized in an amount not less than 102% of the principal amount by an obligation of the United States, its agencies or instrumentalities, provided the collateral is held by a custodian other than the seller designated by the buyer;

(4) bankers' acceptances guaranteed by a financial institution with a short-term debt rating in the highest letter and numerical rating by at least one nationally recognized statistical rating organization as designated by either the United States Securities and Exchange Commission or the Treasurer;

(5) with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this paragraph;

(6) commercial paper that has received the highest letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission, provided that such commercial paper may not exceed 5% of the total investments made by the Treasurer under this subsection;

(7) money market mutual funds that:

(i) contain only securities of the organizations listed in items (1), (2), and (3) of this subsection;

(ii) are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., as amended; and

(iii) are operated in accordance with Rule 2A-7 of the Investment Company Act of 1940, 17 C.F.R. § 270.2A-7, as amended; and

(8) any investment portfolio created under the Maryland Local Government Investment Pool defined under Article 95, § 22G of the Code that is administered by the Office of the State Treasurer.

(b) The Treasurer may sell, redeem, or exchange an investment or reinvestment made under this section in accordance with the limitations of this section.

(c) Subject to § 2-1246 of the State Government Article, the Treasurer shall report by January 3 of each year to the General Assembly on investment activities for unexpended or surplus money over which the Treasurer has custody which have been conducted during the previous fiscal year. At a minimum, the report shall specify for General Fund investments and all other investments:

(1) the inventory of investments with maturity dates and the book and market value as of June 30;

(2) the net income earned;



(3) the percentage share of each category of investment in the portfolio; and

(4) any sale of investments prior to the maturity date.

(d) An investment made pursuant to this section shall be made:

(1) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(2) in a manner designed to reasonably match the anticipated cash flow of the State so that sufficient funds are available to pay obligations upon proper presentation for payment;

(3) so that a reasonable amount of cash or cash equivalents is available for unanticipated cash needs;

(4) with due regard for minimizing risk while maximizing return;

(5) using competitive purchasing practices except when impractical;

(6) in accordance with a written investment policy;

(7) so that the securities and collateral may continue to be priced on a market to market basis;  
and

(8) to avoid the enhancement of the personal financial position of the Treasurer or any employee of the Treasurer who has responsibilities for such investments.

## Article - Treasurer

### § 22.

(a) Except as provided in subsection (b) of this section or § 22-O of this article, and subject to § 22F of this article, and notwithstanding any provision of a local law or ordinance, the governing body of each county and municipal corporation, each county board of education, and the governing body of each road, drainage, improvement, construction or soil conservation district or commission in the State, the Upper Potomac River Commission, and any other political subdivision or body politic of the State, or their authorized acknowledged agent, are directed, authorized, and empowered to invest, redeem, sell, exchange and reinvest all unexpended or surplus money in any fund or account of which they have custody or control in obligations or repurchase agreements in accordance with § 6-222 of the State Finance and Procurement Article, or deposit unexpended or surplus money in any federally insured bank in the State of Maryland or in any federally insured savings and loan association in the State of Maryland in interest-bearing time deposit or savings accounts, or in the local government investment pool created in this article. Except as provided in § 22-O of this article, deposits in banks or in savings and loan associations shall only be made if the bank or savings and loan association has given as security for these deposits any of the types of collateral set forth in § 6-202 of the State Finance and Procurement Article. The interest or income from any such investment or deposit shall become a part of the fund from which the investment or deposit was made and may itself be so invested or deposited. If the fund so invested or deposited constitutes the proceeds of the issue of bonds or other obligations, the principal or interest on which the issuer is obligated to repay to the holders thereof, the interest or income from the investments may be used to pay the principal or interest by the issuer. Investments or deposits made pursuant to this section may be withdrawn or altered from time to time by the investing or depositing officer or governing body either to meet the requirements for which such funds are held or for reinvestment pursuant to this subsection.

(b) The trustees or other officers in charge of any pension or retirement system or fund of any political subdivision of the State or any agency or department of the political subdivision may invest, redeem, sell, exchange, and reinvest moneys under their custody or control as provided by law by the governing body of the political subdivision and shall comply with fiduciary standards that at least meet the standards set forth in Title 21, Subtitle 2 of the State Personnel and Pensions Article in connection with funds under their custody or control.

### § 22F.

(a) (1) In this section the following words have the meanings indicated.

(2) "Chief executive" means:

- (i) For Baltimore City, the Mayor;
- (ii) For a nonhome rule county, the chairman or president of the board of county commissioners;
- (iii) For a charter county, the elected county executive or, if the county does not have an elected executive, the chairman or president of the county council;
- (iv) For a code home rule county, the chairman or president of the board of county commissioners;
- (v) For a community college, a designee of the board of trustees;

(vi) For a municipal corporation, the mayor or, if the municipal corporation does not have a mayor, the chairman or president of the municipal governing body; and

(vii) For the Washington Suburban Sanitary Commission, the Chairman of the Commission.

(3) (i) "Community college" includes a regional community college established under Title 16, Subtitle 2 of the Education Article.

(ii) "Community college" does not include the Baltimore City Community College.

(4) "Governing body" means:

(i) For Baltimore City, the Mayor and City Council of Baltimore;

(ii) For a nonhome rule county, the county commissioners;

(iii) For a charter county, as provided by local law, the county council or the county executive and the county council;

(iv) For a code county, the county commissioners;

(v) For a community college, the board of trustees;

(vi) For a municipal corporation, the body provided by the municipal charter; and

(vii) For the Washington Suburban Sanitary Commission, the Commission.

(5) "Investment manager" means the director of finance, treasurer, or other official of a local government unit who is responsible for the investment of public funds of the local government unit.

(6) "Local government unit" means:

(i) Baltimore City;

(ii) A community college;

(iii) A county;

(iv) A municipal corporation; or

(v) The Washington Suburban Sanitary Commission.

(7) (i) "Public funds" means any revenue held by a local government unit as part of:

1. A general fund;

2. A special fund;

3. A capital improvement fund;

4. A debt service fund;

5. An enterprise fund;
6. An internal service fund; or

7. Except as otherwise provided in subparagraph (ii) of this paragraph, any other account of the local government unit.

(ii) "Public funds" does not include revenues held as part of a pension fund or other trust fund account.

(b) This section and the local government investment guidelines adopted by the State Treasurer under this section supersede any local law, including any charter provision, or any other public general law to the extent of any conflict.

(c) (1) (i) After consulting with local government officials, the State Treasurer shall adopt by regulation local government investment guidelines to govern the investment of public funds by local government units in a manner that will facilitate sound cash management while protecting the public and assuring that a local government unit has access to its public funds as required.

(ii) The State Treasurer's local government investment guidelines shall:

1. State the types of investments in which public funds may be invested;
2. Include guidance for the prudent investment of public funds based on cash flow projections, income, liquidity, investment ratings, and risk;
3. Require that investments by a board of education and a board of library trustees are in compliance with the local investment policy of the respective county; and
4. Prohibit borrowing of funds for the express purpose of investing those funds.

(iii) The State Treasurer's local government investment guidelines shall include a form that local government units shall use to comply with subsection (e) of this section. The form shall be adaptable to the investment needs of each local government unit and shall require sufficient detail to identify all pertinent aspects of an investment portfolio, including any realized losses. The form also shall require that each county include investments managed in accounts for or by the board of education and the board of library trustees of the county. The form shall provide for certification as required under subsection (e) of this section.

(2) (i) On or before September 1, 1995, the governing body of each local government unit shall adopt by resolution a local investment policy that:

1. Is consistent with the local government investment guidelines adopted by the State Treasurer; and
2. Meets the individual needs of the local government unit.

(ii) Promptly after the adoption of a local investment policy, the local government unit shall mail a certified copy to the State Treasurer.

(iii) If the State Treasurer determines that the local investment policy is not consistent with the local government investment guidelines adopted by the State Treasurer, the State Treasurer shall

notify the local government unit and the governing body of the local government unit shall prepare and submit a revised local investment policy that is consistent with the State Treasurer's guidelines.

(3) If the governing body of a local government unit amends its local investment policy, the local government shall submit its new policy to the State Treasurer consistent with the provisions of paragraph (2) of this subsection.

(d) An investment manager may not invest public funds of the local government unit in a manner inconsistent with the local investment policy.

(e) (1) This subsection only applies to a local government unit whose total annual expenditures for total operations, as reported in the most recent publication by the Department of Legislative Services entitled "Local Government Finances in Maryland", exceed \$1,000,000.

(2) (i) On or before January 15 and July 15 of each year, beginning October 1995 and continuing through October 1999, the investment manager shall complete the form adopted by the State Treasurer to report all investments of the local government unit on the close of the final day of the immediately preceding half of the fiscal year.

(ii) The investment manager shall certify the accuracy of the form and that the investments reported on the form are in compliance with the local investment policy and promptly submit the form to the chief executive.

(3) (i) On or before January 30 and July 30 of each year, beginning October 1995 and continuing through October 1999, the chief executive shall review the form received from the investment manager.

(ii) The chief executive shall certify the date on which the form was received and that the chief executive has reviewed the form to verify that the information complies with the local investment policy and promptly mail a copy of the completed certified form to the State Treasurer.

(4) The State Treasurer shall review the forms to verify that the chief executive, a governing body, or an independent auditor engaged by the chief executive or a governing body has certified their compliance with this section and the local government investment guidelines.

(f) (1) The State Treasurer shall contact the local government unit to seek compliance if a local government unit fails to:

(i) Adopt a local investment policy that is consistent with the local government investment guidelines adopted by the State Treasurer; or

(ii) Comply with the reporting requirements under subsection (e) of this section.

(2) If the local government unit continues to fail to comply with this subsection, the State Treasurer shall notify in writing the Joint Committee on the Management of Public Funds.

(3) The Joint Committee on the Management of Public Funds may request the Attorney General to seek judicial enforcement against the local government unit.

**§ 22G.**

(a) (1) There is a Local Government Investment Pool. The Local Government Investment Pool consists of the aggregate of all funds from local governments that are placed in the custody of the State and any funds of the State that are placed in the Local Government Investment Pool by the Treasurer for investment and reinvestment.

(2) The investment policies for the Local Government Investment Pool shall be established by the Treasurer.

(3) The Treasurer shall administer the Local Government Investment Pool on behalf of the participating local governments and, to the extent that State funds are included, on behalf of the State.

(4) The Treasurer shall develop such procedures necessary for the efficient administration of the Pool, including:

(i) Specification of minimum amounts which may be deposited in the Pool and minimum periods of time for which deposits shall be retained in the Pool;

(ii) Payment of amounts equivalent to administrative expenses from the earnings of the Pool; and

(iii) Distribution of the earnings in excess of expenses, or allocation of losses, to the several participants in a manner which equitably reflects the differing amount of their respective investments and the differing periods of time for which the amounts were in the custody of the Pool.

(b) (1) The Treasurer shall invest moneys in the Local Government Investment Pool in accordance with the provisions set forth in §§ 6-222 and 6-223 of the State Finance and Procurement Article.

(2) Notwithstanding any provisions of law to the contrary or any limitation or restriction contained in any other law, the Treasurer may invest, redeem, sell, exchange, and reinvest moneys in the Local Government Investment Pool in bankers' acceptances guaranteed by banking institutions.

(c) (1) The governing authority of any local government having funds which are available for investment and which are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its financial officer to remit funds to the Treasurer for investment as part of the Local Government Investment Pool.

(2) Upon determination by the local governing authority that it is in the best interest of the local government to deposit funds in the Investment Pool, it shall adopt and file with the Treasurer a certified copy of a resolution or ordinance authorizing investment of its funds in the Investment Pool. The resolution or ordinance shall name the local government official or officials responsible for deposit and withdrawal of such funds.

(3) The resolution or ordinance filed with the Treasurer shall be accompanied by a statement as to the approximate cash flow requirements of the local government for the invested funds. Subsequent deposits into the Investment Pool shall be accompanied by a statement as to the intended duration of the investment or the anticipated date of withdrawal of the funds from the Pool.

(d) A separate account designated by name or number for each participant in the fund, including the State, shall be kept to record individual transactions and totals of all investments belonging to each

participant. A monthly report showing the changes in investments made during the preceding month shall be furnished to each participant in the Investment Pool. Details of any investment transaction shall be furnished to any participant upon request.

(e) The principal and credited income of each account maintained for a participant in the Investment Pool shall be subject to payment from the Pool upon request, provided that the request for payment is made in accordance with the terms of the deposit. Accumulated income shall be credited to each participant account at least monthly.

(f) Except as provided in this section, all instruments of title of all investments of the Investment Pool shall remain in the custody of the Treasurer. The Treasurer may deposit with one or more fiscal agents or banks those instruments of title he considers advisable, to be held in safekeeping by the agents or banks for collection of the principal and interest or other income, or of the proceeds of sale. The Treasurer shall collect the principal and interest or other income from investments of the Investment Pool, the instruments of title to which are in his custody, when due and payable.

(g) A payment may not be issued upon any account in an amount greater than the sum total of the particular account to which it applies. If such payment is issued, it shall be refunded by the distributee.

(h) (1) Subject to the objectives and requirements of this section, the Treasurer shall formulate procedures for the investment and reinvestment of funds in the Investment Pool and the acquisition, retention, management, and disposition of investments of the Investment Pool.

(2) (i) The Treasurer may enter into a contractual agreement with a qualified Maryland fiscal agent and may compensate the agent for services rendered.

(ii) The agent may perform investment and administrative services which the Treasurer is authorized by this section to perform.

(i) Funds placed in the Local Government Investment Pool, other than funds of the State, may not be considered to be Treasury funds.

(j) For the purposes of this section, "local government" includes all of the legal entities, bodies, and agencies set out in § 22 of this article and local government insurance pools formed under Title 19, Subtitle 6 of the Insurance Article, but does not include the State and agencies of the State.

## **§ 22M.**

Notwithstanding any other provision of law and in addition to any other authority provided by law, the controller, director of finance, or similar official of a chartered county or Baltimore City may invest, redeem, sell, exchange, and reinvest unexpended bond sale proceeds and other funds which are subject to arbitrage, rebate, or similar limitations under federal tax law, of which the controller, director of finance, or similar official has custody or control in bonds, notes, or other obligations of investment grade quality, as established by a nationally recognized rating agency, issued by or on behalf of this State or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision of this State or any other state, either directly or through a trust or fund that restricts investments of the trust or fund to obligations of investment grade quality.

**§ 22N.**

Notwithstanding any provision of law to the contrary or any limitation or restriction contained in any other law, whenever the county commissioners of any county of the State, or the chief fiscal or administrative officer or officers or governing body of any municipality, town, body politic, public body corporate, school, road, drainage, improvement, construction, or soil conservation district or commission in the State, including, by way of enumeration and not in limitation, the Upper Potomac River Commission, or any county school board or other political subdivision or bodies politic of the State, or any agency of any political subdivision of the State, or the trustees or other officers in charge of any pension or retirement system or fund of the State or any political subdivision thereof or any agency or department of either are directed, authorized, empowered, or permitted to invest in, purchase, or take as collateral a bond, obligation, or other evidence of indebtedness of the United States of America, they are directed, authorized, empowered, and permitted to invest in, purchase, or take as collateral an obligation or security of, or other interest in, any open-end or closed-end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80A-1 et seq., if:

(1) The portfolio of the open-end or closed-end management type investment company or investment trust is limited to direct obligations of the United States government and to repurchased agreements fully collateralized by United States government obligations; and

(2) The open-end or closed-end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian.

**§ 22.O.**

(a) (1) In this section, the following words have the meanings indicated.

(2) "Depositor" means a local government or its authorized acknowledged agent making a deposit of unexpended or surplus money as provided in this section.

(3) "Local government" means:

(i) The governing body of a county or municipal corporation;

(ii) A county board of education;

(iii) The governing body of a road, drainage, improvement, construction, or soil conservation district or commission in the State;

(iv) The Upper Potomac River Commission; or

(v) Any other political subdivision or body politic of the State.

(4) "State financial institution" means any of the following institutions that have a branch in the State that takes deposits:

(i) Bank, trust company, or savings bank incorporated under the laws of the State;

(ii) Bank incorporated under federal law;



- (iii) Bank incorporated under the laws of any other state; or
- (iv) Savings and loan association incorporated under the laws of the State or of the United States.

(b) Notwithstanding the provisions of § 22 of this article, a local government may deposit unexpended or surplus money in any federally insured bank or savings and loan association without the security required in § 22(a) of this article if:

(1) The unexpended or surplus money is initially placed for deposit with a State financial institution selected by the depositor;

(2) The State financial institution selected by the depositor arranges for the further deposit of the money into one or more certificates of deposit of not more than \$100,000 each in one or more federally insured banks or savings and loan associations for the account of the depositor;

(3) At the same time the money is deposited and the certificates of deposit are issued for the benefit of the depositor by other banks or savings and loan associations, the State financial institution selected by the depositor receives an amount of deposits from customers of other banks or savings and loan associations equal to the amount of money initially deposited by the depositor;

(4) Each certificate of deposit issued for the depositor's account is insured by the Federal Deposit Insurance Corporation for 100% of the principal and accrued interest of the certificate of deposit; and

(5) The State financial institution selected by the depositor acts as custodian for the depositor with respect to the certificates of deposit issued for the depositor's account.