House Engrossed Senate Bill

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 279

SENATE BILL 1287

AN ACT

AMENDING SECTIONS 35-323, 42-18051, 42-18206 AND 42-19111, ARIZONA REVISED STATUTES; RELATING TO COUNTY TREASURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 35-323, Arizona Revised Statutes, is amended to read:

35-323. Investing public monies; bidding; security and other requirements

A. The treasurer shall invest and reinvest public monies in securities and deposits with a maximum maturity of five years. All public monies shall be invested in eligible investments. Eligible investments are:

1. Certificates of deposit in eligible depositories.

2. Certificates of deposit in one or more federally insured banks or savings and loan associations in accordance with the procedures prescribed in section 35-323.01.

3. Interest bearing savings accounts in banks and savings and loan institutions doing business in this state whose accounts are insured by federal deposit insurance for their industry, but only if deposits in excess of the insured amount are secured by the eligible depository to the same extent and in the same manner as required under this article.

4. Repurchase agreements with a maximum maturity of one hundred eighty days.

5. The pooled investment funds established by the state treasurer pursuant to section 35-326.

6. Obligations issued or guaranteed by the United States or any of the senior debt of its agencies, sponsored agencies, corporations, sponsored corporations or instrumentalities.

7. Bonds or other evidences of indebtedness of this state or any of its counties, incorporated cities or towns or school districts.

8. Bonds, notes or evidences of indebtedness of any county, municipal district, municipal utility or special taxing district ~~within this~~ OF ANY state that are payable from revenues, earnings or a special tax specifically pledged for the payment of the principal and interest on the obligations, and for the payment of which a lawful sinking fund or reserve fund has been established and is being maintained, but only if no default in payment on principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if such obligations were issued less than five years before the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased nor any other obligations of the issuer within five years of the investment.

9. Bonds, notes or evidences of indebtedness issued by any county improvement district or municipal improvement district ~~in this~~ OF ANY state to finance local improvements authorized by law, if the principal and interest of the obligations are payable from assessments on real property within the improvement district. An investment shall not be made if:

(a) The face value of all such obligations, and similar obligations outstanding, exceeds fifty per cent of the market value of the real property, and if improvements on which the bonds or the assessments for the payment of

principal and interest on the bonds are liens inferior only to the liens for general ad valorem taxes.

(b) A default in payment of principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if the obligations were issued less than five years before the date of investment, a default in the payment of principal or interest has occurred on the obligations to be purchased or on any other obligation of the issuer within five years of the investment.

10. Commercial paper of prime quality that is rated ~~"P1" by Moody's investors service or rated "A1" or better by Standard and Poor's~~ WITHIN THE TOP TWO RATINGS BY A NATIONALLY-RECOGNIZED rating ~~service~~ AGENCY or ~~their~~ ITS successors. All commercial paper must be issued by corporations organized and doing business in the United States.

11. Bonds, debentures and notes that are issued by corporations organized and doing business in the United States and that are rated ~~"A" or better by Moody's investor service or Standard and Poor's~~ WITHIN THE TOP THREE RATINGS BY A NATIONALLY-RECOGNIZED rating ~~service~~ AGENCY or ~~their~~ ITS successors.

12. NEGOTIABLE OR BROKERED CERTIFICATES OF DEPOSIT ISSUED BY A NATIONALLY OR STATE CHARTERED BANK OR SAVINGS AND LOAN ASSOCIATION.

B. Certificates of deposit shall be purchased from the eligible depository bidding the highest permissible rate of interest. No monies over one hundred thousand dollars may be awarded at any interest rate less than one hundred three per cent of the equivalent bond yield of the offer side of United States treasury bills having a similar term. If the eligible depository offering to pay the highest rate of interest has bid only for a portion of the monies to be awarded, the remainder of the monies shall be awarded to eligible depositories bidding the next highest rates of interest.

C. An eligible depository is not eligible to receive total aggregate deposits from this state and all its subdivisions in an amount exceeding twice its capital structure as outlined in the last call of condition of the superintendent of financial institutions.

D. If two or more eligible depositories submit bids of an identical rate of interest for all or any portion of the monies to be deposited, the award of the deposit of the monies shall be made to the eligible depository among those submitting identical bids having, at the time of the bid opening, the lowest ratio of total public deposits in relation to its capital structure.

E. Each bid submitted, and not withdrawn prior to the time specified, constitutes an irrevocable offer to pay interest as specified in the bid on the deposit, or portion bid for, and the award of a deposit in accordance with this section obligates the depository to accept the deposit and pay interest as specified in the bid pursuant to which the deposit is awarded.

F. The treasurer shall maintain a record of all bids received and shall make available to the board of deposit at its next regularly scheduled meeting a correct list showing the bidders, the bids received and the amount awarded. These records shall be available to the public and shall be kept in the possession of the treasurer for not less than two years from the date of the report.

G. Any eligible depository, before receiving a deposit in excess of the insured amount under this article, shall deliver collateral for the purposes of this subsection equal to at least one hundred one per cent of the deposit. The collateral shall be any of the following:

1. A bond executed by a surety company that is approved by the treasury department of the United States and authorized to do business in this state. The bond shall be approved as to form by the legal advisor of the treasurer.

2. Securities or instruments of the following character:

(a) United States government or agency obligations.

(b) State, county, school district and other district municipal bonds.

(c) Registered warrants of this state, a county or other political subdivisions of this state, when offered as security for monies of the state, county or political subdivision by which they are issued.

(d) First mortgages and trust deeds on improved, unencumbered real estate located in this state. No single first mortgages or trust deeds may represent more than ten per cent of the total collateral. The treasurer may require that the first mortgages or trust deeds comprising the total collateral security be twice the amount the eligible depository receives on deposit. First mortgages or trust deeds qualify as collateral subject to the following limitations:

(i) The promissory note or other evidences of indebtedness secured by such first mortgage or trust deed shall have been in existence for at least three years and shall not have been in default during this period.

(ii) An eligible depository shall at its own expense execute, deposit with the treasurer and record with the appropriate county recorder a complete sale and assignment with recourse in a form approved by the attorney general, together with an unconditional assumption of obligation to promptly pay to the entitled parties public monies in its custody upon lawful demand and tender of resale and assignment.

Eligible depositories may deposit the security described in this subdivision with the state treasurer, and county, city or town treasurers may accept the security described in this subdivision at their option.

3. The safekeeping receipt of a federal reserve bank or any bank located in a reserve city, or any bank authorized to do business in this state, whose combined capital, surplus and outstanding capital notes and debentures on the date of the safekeeping receipt are ten million dollars or more, evidencing the deposit therein of any securities or instruments described in this section. A safekeeping receipt shall not qualify as

security, if issued by a bank to secure its own public deposits, unless issued directly through its trust department. The safekeeping receipt shall show upon its face that it is issued for the account of the treasurer and shall be delivered to the treasurer. The safekeeping receipt may provide for the substitution of securities or instruments which qualify under this section with the affirmative act of the treasurer.

H. The securities, instruments or safekeeping receipt for the securities, instruments or warrants shall be accepted at market value if not above par, and, if at any time their market value becomes less than the deposit liability to that treasurer, additional securities or instruments required to guarantee deposits shall be deposited immediately with the treasurer who made the deposit and deposited by the eligible depository in which the deposit was made.

I. The condition of the surety bond, or the deposit of securities, instruments or a safekeeping receipt, must be such that the eligible depository will promptly pay to the parties entitled public monies in its custody, upon lawful demand, and will, when required by law, pay the monies to the treasurer making the deposit.

J. Notwithstanding the requirements of this section, any institution qualifying as an eligible depository may accept deposits of public monies to the total then authorized insurance of accounts, insured by federal deposit insurance, without depositing a surety bond or securities in lieu of the surety bond.

K. An eligible depository shall report monthly to the treasurer the total deposits of that treasurer and the par value and the market value of any pledged collateral securing those deposits.

L. When a security or instrument pledged as collateral matures or is called for redemption, the cash received for the security or instrument shall be held in place of the security until the depository has obtained a written release or provided substitute securities or instruments.

M. The surety bond, securities, instruments or safekeeping receipt of an eligible depository shall be deposited with the treasurer making the deposit, and ~~he~~ THE TREASURER shall be the custodian of the bond, securities, instruments or safekeeping receipt. The treasurer may then deposit with the depository public monies then in ~~his~~ THE TREASURER'S possession in accordance with this article, but not in an amount in excess of the surety bond, securities, instruments or safekeeping receipt deposited, except for federal deposit insurance.

N. The following restrictions on investments are applicable:

1. An investment of public operating fund monies shall not be invested for a ~~duration~~ MATURITY of longer than ~~three~~ FIVE years.

2. The board of deposit may order the treasurer to sell any of the securities, and any order shall specifically describe the securities and fix the date upon which they are to be sold. Securities so ordered to be sold shall be sold for cash by the treasurer on the date fixed in the order, at

the then current market price. The treasurer and the members of the board are not accountable for any loss occasioned by sales of securities at prices lower than their cost. Any loss or expense shall be charged against earnings received from investment of public funds.

O. If the total amount of subdivision monies available for deposit at any time is less than one hundred thousand dollars, the subdivision board of deposit shall award the deposit of the funds to an eligible depository in accordance with an ordinance or resolution of the governing body of the subdivision.

Sec. 2. Section 42-18051, Arizona Revised Statutes, is amended to read:

42-18051. Notice of tax; payment by electronic funds transfer

A. Immediately on receiving the tax roll from the county board of supervisors, the county treasurer shall publish an official notice stating:

1. That the assessment and tax roll is now in the treasurer's possession for collecting the taxes levied.

2. That the taxes on real property and personal property are due and payable and become delinquent at the dates and times prescribed by section 42-18052, and interest will be added to the tax from the time of the delinquency as prescribed by section 42-18053, unless either:

(a) The first half of the taxes are paid before they are delinquent.

(b) The full year tax is paid on or before December 31, as provided by section 42-18053.

3. That all taxes may be paid at the time the first installment is due and payable.

4. When and where tax payments may be made.

B. The county treasurer shall publish the notice once a week for four consecutive weeks in a newspaper of general circulation in the county.

C. No other demand for taxes is necessary.

D. Each person who is subject to taxation shall pay the taxes at the county treasurer's office, or at any other location designated by the treasurer, before they become delinquent.

E. The county treasurer may require electronic transmission of supporting documentation and payment that includes the name of the taxpayer, tax parcel number and amount of tax, on or before the dates prescribed by section 42-18052, by any person or entity, acting on behalf of multiple owners of property who submit tax payments to the county treasurer in a lump sum exceeding fifty thousand dollars or owners who submit ~~one hundred~~ FIFTY or more ~~personal property~~ tax payments. If the sum of funds submitted fails to balance with the tax parcel information and supporting documentation submitted electronically, and there have been no changes to the tax bills as a result of assessor resolutions or tax court judgments, the funds shall not be accepted and the treasurer shall return the funds and request that the correct amount be submitted. If any payment is received after a delinquent

date as prescribed in section 42-18052, interest accrues as prescribed by section 42-18053.

Sec. 3. Section 42-18206, Arizona Revised Statutes, is amended to read:

42-18206. Redemption during pendency of action to foreclose

Any person who is entitled to redeem under article 4 of this chapter may redeem at any time before judgment is entered, notwithstanding that an action TO FORECLOSE has been commenced, but if the person who redeems has been served personally or by publication in the action, OR IF THE PERSON BECAME AN OWNER AFTER THE ACTION BEGAN AND REDEEMS AFTER A NOTICE IS RECORDED PURSUANT TO SECTION 12-1191, judgment shall be entered in favor of the plaintiff against the person for the costs incurred by the plaintiff, including ~~a~~ reasonable attorney ~~fee~~ FEES to be determined by the court.

Sec. 4. Section 42-19111, Arizona Revised Statutes, is amended to read:

42-19111. Notice of sale

A. After seizing the property the sheriff shall give notice of the time, place and terms of sale by:

1. Posting three notices in the county where the property is to be sold. One of the notices shall be posted at the place where the property is located, and the other two shall be posted in locations in the county that are commonly and regularly observed by the general public.

2. Either personal service on the owner of the property or mailing a copy of the notice to the owner by certified mail, return receipt requested. IF NOTIFICATION UNDER THIS PARAGRAPH CANNOT BE COMPLETED BECAUSE THE OWNER IS UNKNOWN OR THE OWNER'S ADDRESS IS UNKNOWN, THE SHERIFF SHALL PUBLISH NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE UNSECURED PROPERTY WAS SEIZED. IF THE NOTICE IS PUBLISHED IN A WEEKLY NEWSPAPER, THE NOTICE MUST APPEAR ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS. IF THE NOTICE IS PUBLISHED IN A DAILY NEWSPAPER, THE NOTICE MUST APPEAR SIX CONSECUTIVE TIMES. IN EITHER CASE, THE LAST PUBLICATION MUST APPEAR AT LEAST THREE WEEKS BUT NOT MORE THAN FOUR WEEKS BEFORE THE DATE OF THE SALE.

B. The notices shall:

1. Describe the property to be sold.

2. State the name of the owner or person to whom the property is assessed.

3. State the place and time of holding the sale.

4. State the amount of taxes for which the property is to be sold.

C. The sheriff may not sell personal property under section 42-19113 until at least three weeks after the notice is served on the property owner, ~~or~~ after receiving confirmation that the owner received the notice by certified mail OR AFTER THE LAST DATE OF NOTICE BY PUBLICATION, whichever method the sheriff used under subsection A, paragraph 2 of this section.

D. If a court determines that a sheriff failed to give notice as required by this section:

1. Any sale of the personal property by the sheriff is void.

2. The owner is entitled to redeem the property as provided by this article on paying the outstanding taxes, interest and costs associated with collecting the taxes.

3. The court may award fees and other expenses associated with the adjudication to the owner as provided by section 12-348.

APPROVED BY THE GOVERNOR MAY 7, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2010.

Passed the House April 28, 2010,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 1, 2010,

by the following vote: 28 Ayes,

0 Nays, 1 Not Voting

1 VACANT

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1287

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 28, 20 10

by the following vote: 28 Ayes,

2 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

29 day of April, 20 10

at 9:40 o'clock A. M.

Secretary to the Governor

Approved this 7 day of

May, 2010

at 10:25 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 7th day of May, 20 10

at 4:30 o'clock P.M.

Secretary of State

S.B. 1287