

SURPLUS FUNDS IN TREASURY (EXCERPT)
Act 105 of 1855

21.142d Investment of surplus funds to facilitate marina dredging loans.

Sec. 2d. (1) The state treasurer may invest surplus funds under the state treasurer's control in certificates of deposit or other instruments of a financial institution qualified under this act to receive deposits or investments of surplus funds for the purpose of facilitating marina dredging loans. The state treasurer shall endeavor to make investments under this subsection in financial institutions such that marina dredging loans will be conveniently available in all geographic regions in this state. The state treasurer may enter into an investment agreement with a financial institution to provide for the investment under this subsection. The investment agreement shall contain all of the following:

- (a) The term of the investment which shall be not more than 10 years.
- (b) A requirement that the interest accruing on the investment shall not be more than the interest earned by the financial institution on marina dredging loans made after the date of the investment.
- (c) A requirement that the financial institution shall provide good and ample security as the state treasurer requires and shall identify the marina dredging loans and the terms and conditions of those loans that are made after the date of the investment that are attributable to that investment together with other information required by this act.
- (d) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall be issued at a rate or rates of interest that are established in the investment agreement.
- (e) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall be made not later than 3 years after the effective date of this section.
- (f) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall be issued for a loan repayment period of not more than 7 years.
- (g) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall not exceed \$75,000.00.
- (h) A requirement that a marina dredging loan made by the financial institution that is attributable to the investment shall not be released by the financial institution unless the loan applicant has certified that it is an eligible marina.
- (i) A requirement that to the extent the financial institution has not made marina dredging loans in an amount at least equal to the amount of the investment within 90 days after the investment, the rate of interest payable on that portion of the outstanding investment shall be increased to a rate of interest provided in the investment agreement, with the increase in the rate of interest applied retroactively to the date on which the state treasurer made the investment.
- (j) Incentives for the early repayment of the investment and for the acceleration of payments in the event of a state cash shortfall as prescribed by the investment agreement, if required by the state treasurer.
- (k) Other terms as prescribed by the state treasurer.
- (2) An investment made under this section is found and declared to be for a valid public purpose.
- (3) The attorney general shall approve documentation for an investment under this section as to legal form.
- (4) The aggregate amount of investments made under this section shall not exceed \$20,000,000.00.
- (5) Upon the determination by the directors of the departments of natural resources and environmental quality that the need to facilitate marina dredging loans has significantly diminished based on changes in Great Lakes water levels, the state treasurer may take actions necessary to ensure that no new marina dredging loans that are attributable to an investment under this section are made. Such a determination shall not affect existing marina dredging loans that are attributable to an investment under this section.
- (6) Earnings from an investment made under this section that are in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested under section 1, shall be credited to the general fund of the state. If interest from an investment made under this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested under section 1, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made under this section shall reduce the earnings of the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.
- (7) The state treasurer may take any necessary action to ensure the successful operation of this section, including making investments with financial institutions to cover the administrative and risk-related costs associated with a marina dredging loan.
- (8) Annually, each financial institution in which the state treasurer has made an investment under this section shall file an affidavit, signed by a senior executive officer of the financial institution, stating that the

financial institution is in compliance with the terms of the investment agreement.

(9) The state treasurer shall annually prepare and submit a report to the legislature regarding the disposition of money invested for purposes of facilitating marina dredging loans under this section. The report shall include all of the following information:

(a) The total number of eligible marina owners who have received a marina dredging loan.

(b) By county, the total number and amounts of the marina dredging loans that were issued.

(c) The name of each financial institution participating in the marina dredging loan program and the amount invested in each financial institution for purposes of the loan program.

(10) As used in this section:

(a) "Bottomland" means the land area of a water body that lies below the ordinary high-water mark and that may or may not be covered by water.

(b) "Dredging" means the removal of sediments from bottomland.

(c) "Dredging costs" means the costs associated with dredging that were incurred after January 1, 2000, including costs of removal, disposal, and testing of sediments, and the costs associated with obtaining necessary permits required to conduct dredging.

(d) "Eligible marina" means a privately owned, commercial facility in this state that meets all of the following requirements:

(i) Extends into or over the Great Lakes and their connecting waters navigable by motorized watercraft from a Great Lake.

(ii) Provides docking, mooring or launching services available to the general public for recreational boating. Marinas that limit their services based on membership or residency requirements are not eligible.

(iii) Provides mooring facilities for no more than 200 recreational watercraft through the use of docks, slips, or broadside mooring.

(iv) Has received the permits required by law from the department of environmental quality and the army corps of engineers for the dredging to be conducted with loan funds.

(e) "Marina dredging loan" means a loan or the refinancing of all or a portion of a loan made to the owner of an eligible marina for dredging costs necessitated by low water levels to accommodate the use of the marina by recreational watercraft.

(f) "Ordinary high-water mark" means either of the following:

(i) For an inland lake or stream, that term as it is defined in section 30101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.30101.

(ii) For the Great Lakes, the ordinary high-water mark as described in section 32502 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32502.

(g) "Surplus funds" means, at any given date, the excess of cash and other recognized assets that are expected to be resolved into cash or its equivalent in the natural course of events and with a reasonable certainty, over the liabilities and necessary reserves at the same date.

History: Add. 2000, Act 280, Imd. Eff. July 10, 2000.