

Chapter 143

(House Bill 846)

AN ACT concerning

State Investment Portfolio and Local Government Investment Guidelines – Investment Standards

FOR the purpose of requiring the Treasurer to consult with governmental entities prior to proposing certain regulations; repealing the limitations on investment in certain assets in which the Treasurer may invest or reinvest certain unexpended or surplus funds; requiring the Treasurer to adopt regulations that specify asset classes in which the Treasurer may invest; requiring the Treasurer to notify governing bodies of certain ~~local~~ governmental ~~units~~ entities about certain updates to certain investment standards; authorizing the Treasurer to retain investments made prior to the effective date of this Act until the investments have reached their respective maturity dates; authorizing the Treasurer and governmental entities to invest or reinvest certain surplus funds in accordance with certain provisions of law prior to the adoption of certain regulations; and generally relating to the Treasurer and investment standards.

BY repealing and reenacting, with amendments,

Article – Local Government

Section 17–204

Annotated Code of Maryland

(2013 Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6–222

Annotated Code of Maryland

(2021 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Local Government

17–204.

(a) **(1)** After consulting with the governmental entities, the State Treasurer shall adopt by regulation local government investment guidelines to govern the investment of public money by the entities in a manner that:

[(1)] (1) facilitates sound cash management;

[(2)] (II) protects the public; and

[(3)] (III) ensures that each entity has access to its public money.

(2) PRIOR TO ADOPTING REGULATIONS THAT ALTER THE TYPES OF INVESTMENTS IN WHICH GOVERNMENTAL ENTITIES MAY INVEST PUBLIC MONEY, THE STATE TREASURER SHALL CONSULT WITH THE GOVERNMENTAL ENTITIES.

(b) The local government investment guidelines shall:

(1) specify the types of investments in which public money may be invested;

(2) include guidance for the prudent investment of public money based on cash flow projections, income, liquidity, investment ratings, and risk;

(3) require that investments by a county board of education and a county board of library trustees comply with the local investment policy of the county; and

(4) prohibit the borrowing of money for the express purpose of investment.

Article – State Finance and Procurement

6–222.

(a) [(1) In this section, “supranational issuer” means an international development institution that:

(i) provides financing, advisory services, or other financial services to the institution’s member countries to achieve the overall goal of improving living standards through sustainable economic growth; and

(ii) is rated in the highest credit rating category by a nationally recognized statistical rating organization.

(2) “Supranational issuer” includes:

(i) the World Bank;

(ii) the International Finance Corporation;

(iii) the Inter–American Development Bank;

(iv) the African Development Bank; and

(v) the Asian Development Bank.

(b)] (1) Subject to paragraph (2) of this subsection, the Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody [in:

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

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

(iii) an obligation issued and unconditionally guaranteed by a supranational issuer denominated in United States dollars and eligible to be sold in the United States;

(iv) 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;

(v) 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;

(vi) 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 item;

(vii) commercial paper that has received the highest letter and numerical rating by at least two nationally recognized statistical rating organizations as designated by the United States Securities and Exchange Commission;

(viii) money market mutual funds that:

1. 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;

2. 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

3. have received the highest possible rating from at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission; and

(ix) any investment portfolio created under the Maryland Local Government Investment Pool defined under §§ 17–301 through 17–309 of the Local Government Article of the Code that is administered by the Office of the State Treasurer].

(2) Investments made under paragraph (1) of this subsection shall be in accordance with the **LIMITATIONS FOR THE ASSET CLASSES AND** thresholds established in regulations adopted under subsection [(g)] (F) of this section.

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

[(d)] (C) Subject to § 2–1257 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.

[(e)] (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.

[(f)] (E) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under this article and consistent with the fiduciary duties of the Treasurer, the Treasurer shall attempt to use to the greatest extent feasible minority business enterprises for brokerage and investment management services under this section.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes [as described in] **AUTHORIZED IN THE REGULATIONS ADOPTED UNDER** subsection **[(b)] (F)** of this section.

(2) (i) To assist the Treasurer in achieving the goal described under paragraph (1) of this subsection, the Treasurer shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this section.

(ii) The measures undertaken by the Treasurer shall include the use of a wide variety of media, including the Treasurer's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Treasurer.

(3) In conjunction with the Governor's Office of Small, Minority, and Women Business Affairs, the Treasurer shall develop guidelines to assist in identifying and evaluating qualified minority business enterprises in order to help the Treasurer achieve the objective for greater use of minority business enterprises for brokerage and investment management services under this section.

(4) On or before September 1 each year, the Treasurer shall submit a report to the Governor's Office of Small, Minority, and Women Business Affairs and, subject to § 2-1257 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Treasurer in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets under the custody of the Treasurer that are under the investment control of minority business enterprise brokerage and investment management services firms for each allocated asset class; and

(iii) the measures the Treasurer undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

[(g)] (F) (1) The Treasurer shall adopt regulations that establish a State investment policy.

(2) The State investment policy shall specify:

(I) ASSET CLASSES IN WHICH THE TREASURER MAY INVEST OR REINVEST CERTAIN UNEXPENDED OR SURPLUS FUNDS; AND

(II) thresholds for the maximum investment in each asset class authorized under [this section] ITEM (I) OF THIS PARAGRAPH.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Notwithstanding any other provision of law, the Treasurer may retain investments made prior to the effective date of this Act until the investments have reached their respective maturity dates.

(b) Notwithstanding the changes to § 6-222 of the State Finance and Procurement Article as enacted by Section 1 of this Act, the Treasurer may invest or reinvest surplus money in the investments authorized under the former § 6-222 of the State Finance and Procurement Article as in effect immediately preceding the effective date of this Act until the effective date of the regulations amending the State investment policy are adopted by the Treasurer in accordance with Section 3 of this Act.

(c) Notwithstanding the changes to § 6-222 of the State Finance and Procurement Article as enacted by Section 1 of this Act, the governmental entities described in § 17-203 of the Local Government Article may invest or reinvest surplus money in the investments authorized under the former § 6-222 of the State Finance and Procurement Article as in effect immediately preceding the effective date of this Act until the effective date of the regulations amending the local government investment guidelines are adopted by the Treasurer in accordance with Section 3 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Treasurer shall:

(1) on or before December 1, 2024, adopt ~~the~~:

(i) regulations amending the State investment policy in accordance with § 6-222 of the State Finance and Procurement Article as enacted by Section 1 of this Act ~~required under Section 1 of this Act~~; and

(ii) regulations amending the local government investment guidelines in accordance with § 17-204 of the Local Government Article as enacted by Section 1 of this Act; and

(2) following the adoption of regulations amending the local government investment guidelines as required under ~~Section 1 of this Act~~ item (1) of this section:

(i) notify in writing the governing body of each ~~local~~ governmental ~~unit~~ entity required to have a local investment policy under § 17-205 of the Local Government Article of the ~~updated State investment policy;~~ amended local government investment guidelines; and

(ii) provide the ~~local government~~ governmental entity with an opportunity to review, revise, and report any changes in the local investment policies to the Treasurer, as appropriate.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 25, 2024.