

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

**CHAPTER 188**  
**HOUSE BILL 2347**

AN ACT

AMENDING SECTIONS 35-323, 35-458 AND 35-474, ARIZONA REVISED STATUTES;  
RELATING TO PUBLIC FINANCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 35-323. Investing public monies; bidding; security and other  
5 requirements

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

9 1. Certificates of deposit in eligible depositories.

10 2. Deposits in one or more federally insured banks or savings and loan  
11 associations placed in accordance with the procedures prescribed in section  
12 35-323.01.

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

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

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

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

25 7. Bonds, notes or other evidences of indebtedness of this state or  
26 any of its counties, incorporated cities or towns, ~~or~~ school districts **OR**  
27 **SPECIAL TAXING DISTRICTS, INCLUDING REGISTERED WARRANTS THAT SHALL BEAR**  
28 **INTEREST PURSUANT TO SECTION 11-635.**

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

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

1 (a) The face value of all such obligations, and similar obligations  
2 outstanding, exceeds fifty per cent of the market value of the real property,  
3 and if improvements on which the bonds or the assessments for the payment of  
4 principal and interest on the bonds are liens inferior only to the liens for  
5 general ad valorem taxes.

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

12 10. Commercial paper of prime quality that is rated within the top two  
13 ratings by a nationally recognized rating agency. All commercial paper must  
14 be issued by corporations organized and doing business in the United States.

15 11. Bonds, debentures, ~~and~~ notes **OR OTHER EVIDENCES OF INDEBTEDNESS**  
16 ~~that are issued by corporations organized and doing business in the United~~  
17 ~~States and that are rated within the top three ratings by a nationally~~  
18 ~~recognized rating agency~~ **DENOMINATED IN UNITED STATES DOLLARS AND THAT CARRY**  
19 **AT A MINIMUM AN "A" OR BETTER RATING, AT THE TIME OF PURCHASE, FROM AT LEAST**  
20 **TWO NATIONALLY RECOGNIZED RATING AGENCIES.**

21 12. Negotiable or brokered certificates of deposit issued by a  
22 nationally or state chartered bank or savings and loan association.

23 13. Securities of or any other interests in any open-end or closed-end  
24 management type investment company or investment trust, including exchange  
25 traded funds whose underlying investments are invested in securities allowed  
26 by state law, registered under the investment company act of 1940 (54 Stat.  
27 789; 15 United States Code sections 80a-1 through 80a-64), as amended.

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

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

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

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

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

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

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

20 2. Securities or instruments of the following character:

21 (a) United States government or agency obligations.

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

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

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

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

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

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

1           3. The safekeeping receipt of a federal reserve bank or any bank  
2 located in a reserve city, or any bank authorized to do business in this  
3 state, whose combined capital, surplus and outstanding capital notes and  
4 debentures on the date of the safekeeping receipt are ten million dollars or  
5 more, evidencing the deposit therein of any securities or instruments  
6 described in this section. A safekeeping receipt shall not qualify as  
7 security, if issued by a bank to secure its own public deposits, unless  
8 issued directly through its trust department. The safekeeping receipt shall  
9 show upon its face that it is issued for the account of the treasurer and  
10 shall be delivered to the treasurer. The safekeeping receipt may provide for  
11 the substitution of securities or instruments which qualify under this  
12 section with the affirmative act of the treasurer.

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

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

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

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

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

37           M. The surety bond, securities, instruments or safekeeping receipt of  
38 an eligible depository shall be deposited with the treasurer making the  
39 deposit, and the treasurer shall be the custodian of the bond, securities,  
40 instruments or safekeeping receipt. The treasurer may then deposit with the  
41 depository public monies then in the treasurer's possession in accordance  
42 with this article, but not in an amount in excess of the surety bond,  
43 securities, instruments or safekeeping receipt deposited, except for federal  
44 deposit insurance.

1 N. The following restrictions on investments are applicable:  
2 1. An investment of public operating fund monies shall not be invested  
3 for a maturity of longer than five years.  
4 2. The board of deposit may order the treasurer to sell any of the  
5 securities, and any order shall specifically describe the securities and fix  
6 the date upon which they are to be sold. Securities so ordered to be sold  
7 shall be sold for cash by the treasurer on the date fixed in the order, at  
8 the then current market price. The treasurer and the members of the board  
9 are not accountable for any loss occasioned by sales of securities at prices  
10 lower than their cost. Any loss or expense shall be charged against earnings  
11 received from investment of public funds.  
12 3. INVESTMENTS IN COMPANIES IDENTIFIED IN SECTION 35-392, SUBSECTION  
13 A, PARAGRAPH 1.  
14 0. If the total amount of subdivision monies available for deposit at  
15 any time is less than one hundred thousand dollars, the subdivision board of  
16 deposit shall award the deposit of the funds to an eligible depository in  
17 accordance with an ordinance or resolution of the governing body of the  
18 subdivision.  
19 Sec. 2. Section 35-458, Arizona Revised Statutes, is amended to read:  
20 35-458. Levy of tax for payment of interest and bonds  
21 A. After the bonds are issued, the governing body or board shall enter  
22 ~~upon~~ ON its minutes a record of the bonds sold, ~~AND~~ their numbers and dates,  
23 and shall annually levy and cause to be collected a tax, at the same time and  
24 in the same manner as other taxes are levied and collected ~~upon~~ ON all  
25 taxable property in such political subdivision, sufficient to pay the ANNUAL  
26 interest on the bonds when due, and shall likewise annually levy a tax  
27 sufficient to redeem the bonds when they mature. THE ANNUAL LEVY FOR BOTH  
28 THE PRINCIPAL AND INTEREST PAYMENT, INCLUDING A REASONABLE TAX DELINQUENCY  
29 FACTOR, SHALL NOT EXCEED THE NET AMOUNT NECESSARY TO MAKE THE ANNUAL PAYMENT  
30 AND THE REASONABLE DELINQUENCY FACTOR, INCLUDING AN AMOUNT NECESSARY TO  
31 CORRECT PRIOR YEAR ERRORS IN THE LEVY, IF APPLICABLE, AND ANY EXPENSES AND  
32 FEES REQUIRED IN CONJUNCTION WITH THE AUTHORIZATION PURSUANT TO SECTION  
33 35-512.  
34 B. Monies derived from the levy of the tax when collected shall  
35 constitute a fund for payment of interest and the bonds. The fund shall be  
36 kept separately and shall be known as the "interest fund" and "redemption  
37 fund," ~~OR THE TWO FUNDS MAY BE COMBINED INTO A SINGLE "INTEREST AND~~  
38 REDEMPTION FUND."

1           Sec. 3. Section 35-474, Arizona Revised Statutes, is amended to read:  
2           35-474. Levy of tax for payment of bonds  
3           The board of supervisors, on behalf of the county or a school district  
4           therein, or the governing body or board of a municipal corporation, which has  
5           issued refunding bonds shall, during each year in which the bonds are  
6           outstanding, levy a tax on all property in the political subdivision for  
7           which the bonds are issued, sufficient to pay the ANNUAL interest on all  
8           bonds then outstanding and the annual installment of the principal thereof  
9           becoming due and payable in the next ensuing year. THE ANNUAL LEVY FOR BOTH  
10          THE PRINCIPAL AND INTEREST PAYMENT, INCLUDING A REASONABLE TAX DELINQUENCY  
11          FACTOR, SHALL NOT EXCEED THE NET AMOUNT NECESSARY TO MEET THE ANNUAL PAYMENT  
12          AND THE REASONABLE DELINQUENCY FACTOR, INCLUDING AN AMOUNT NECESSARY TO  
13          CORRECT PRIOR YEAR ERRORS IN THE LEVY, IF APPLICABLE, AND ANY EXPENSES AND  
14          FEES REQUIRED IN CONJUNCTION WITH THE AUTHORIZATION PURSUANT TO SECTION  
15          35-512. Such taxes shall be levied, assessed and collected at the same time  
16          and in the same manner as other taxes are levied, assessed and collected.  
17          The proceeds of the taxes shall be kept in a special fund and shall be used  
18          only for the purpose for which collected.

APPROVED BY THE GOVERNOR MAY 7, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2013.