

## CHAPTER 145

## S.B. No. 449

An Act relating to the deposit, investment, and management of county funds and to the imposition of certain handling charges involving county funds or funds held in trust by a county or district clerk; imposing certain fees; amending Chapter 467, Acts of the 62nd Legislature, Regular Session, 1971, by amending Section 2 and adding Subsection (h) to Section 4; amending Article 2544, Revised Statutes; amending Section (c) and adding Sections (d) and (e), Article 2549, Revised Statutes; adding Section 4c to Chapter 14, General Laws, Acts of the 41st Legislature, 4th Called Session, 1930 (Articles 1709a, 2544, 2549, and 2558a, Vernon's Texas Civil Statutes); adding Article 3943f to Title 61, Revised Statutes; and repealing Chapter 694, Acts of the 66th Legislature, 1979 (Article 1644f, Vernon's Texas Civil Statutes).

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Section 2, Chapter 467, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1709a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. ~~The [From and after the effective date of this Act, the]~~ County Treasurer in each county of this State shall receive all moneys belonging to the county from whatever source they may be derived. *A county officer who receives funds shall deposit them with the County Treasurer or his successor not later than the next regular business day after the day on which the funds are received, but in no event shall deposits be made later than seven business days after receipt of said funds with the following exception. In counties with a population of under 50,000,*

the Commissioners Court, at its discretion, may extend the time during which funds shall be deposited with the County Treasurer or his successor, up to 30 days from the time said funds are received. Clarification as to moneys and mode and manner of receipt thereof not inconsistent with existing laws follows:

“(a) All fees, commissions, funds and moneys belonging to the county shall be turned over to the County Treasurer by the officer who collected them in accordance with any applicable procedures prescribed by or under Articles 1656 and 1656a, Revised Civil Statutes of Texas, 1925, or in the case of the County Assessor-Collector, in accordance with the procedures prescribed by or under the Tax Code or other laws [; in the manner prescribed in Chapter 98, Acts of the 43rd Legislature, 1933, as amended (Article 1656a, Vernon’s Texas Civil Statutes)]. Such deposit of funds in the county treasury shall not in any wise change the ownership of any fund so deposited, except to indemnify said officer and his bondsman or other owners of such funds during the period of deposit with the county.

“(b) All deposits that are made in the county treasury shall be upon deposit warrant issued by the County Clerk in triplicate; said warrants shall authorize the treasurer to receive the amount named, for what purpose, and to which fund the same shall be applied. The treasurer shall retain the original; the duplicate shall be signed and returned to the clerk and the triplicate signed and returned to the depositor as provided in Article 1657, Revised Civil Statutes of Texas, 1925. In each county of this State having a County Auditor the County Clerk shall give his copy to the auditor, who then shall enter same upon his books as a check and balance, charging the amounts to the County Treasurer and crediting the same to the depositing party.

“(c) The treasurer shall not under any circumstances receive any money in any other manner than that named herein. However, this Act does not affect the authority of a Commissioners Court to adopt an order under Article 1657, Revised Civil Statutes of Texas, 1925, relieving the County Clerk of the duties prescribed by Article 1657. Furthermore, [; except that] in counties of whose population exceeds 1,200,000 the County Clerk is relieved of all duties prescribed by Article 1657, Revised Civil Statutes of Texas, 1925. In [such] counties with that population the County Treasurer shall prepare a triplicate receipt for all moneys received, retain one copy of the receipt and transmit the original and the duplicate to the county auditor and the depositor respectively, as provided in Chapter 235, Acts of the 60th Legislature, 1967 (Article 1657a, Vernon’s Texas Civil Statutes).”

**SECTION 2.** Section 4, Chapter 467, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1709a, Vernon’s Texas Civil Statutes), is amended by adding Subsection (h) to read as follows:

“(h) The County Treasurer, if satisfied that an original check or other order drawn on the county treasury by a proper authority is lost or destroyed, may issue a duplicate instrument in lieu of the original. However, the duplicate instrument may not be issued until an applicant has filed an affidavit with the County Treasurer stating that the applicant is the true owner of the original instrument and that the original is lost or destroyed. The County Treasurer may require the applicant to execute a bond that is double the amount of the claim. The bond must be executed with two or more good and sufficient sureties, must be made payable to the County Judge, must be notarized, must be approved by the County Treasurer, and must be conditioned that the applicant will hold the county harmless and will return to the County Treasurer upon demand by the County Treasurer the duplicate instrument or the amount of money named in the duplicate, together with all costs that may accrue against the county in collecting the amount.

“After the issuance of the duplicate instrument, if the County Treasurer determines that the duplicate was improperly issued or that the applicant or party to whom the duplicate was issued is not the owner of the original instrument, the County Treasurer shall at once demand the return of the duplicate, if unpaid, or the amount paid out by the county, if the duplicate is paid. On the failure of the party to return the duplicate instrument or the amount of money called for, suit shall be instituted on the bond by the County Treasurer through the office of the County or District Attorney. Venue for the suit is in the county in which the County Treasurer serves.”

**SECTION 3.** Article 2544, Revised Statutes, is amended to read as follows:

“Article 2544. NOTICE TO BANKS. The Commissioners Court of each county is hereby authorized [and required] at the February Regular Term [thereof next following each general election] to enter into a contract with any banking corporation, association or individual banker in such county for the depositing of the public funds of such county in such bank or banks. However, the Commissioners Court is required at the February Regular Term next following each general election to enter into such a contract for the depositing of public funds. Notice that such contracts will be made by the Commissioners Court shall be published by and over the name of the County Judge, once each week for at least twenty (20) days before the commencement of such term in some newspaper published in said county; and if no newspaper be published therein, then in any newspaper published in the nearest county. In

addition thereto, notice shall be published by posting same at the courthouse door of said county.”

**SECTION 4.** Article 2549, Revised Statutes, as amended, is amended by amending Section (c) and by adding Sections (d) and (e) to read as follows:

“(c) Unless expressly prohibited by law or unless it is in contravention of any depository contract between a county and any depository bank, the Commissioners Court may direct the county treasurer to [:

“~~(1)~~] withdraw any amount of funds of the county that are deposited in a county depository and that are not required immediately to pay obligations of the county or required to be kept on deposit under the terms of the depository contract [s] and to

“~~(2)~~] invest those funds in:

“(1) direct debt securities of the United States; or

“(2) fully collateralized repurchase agreements purchased pursuant to a master contractual agreement which specifies the rights and obligations of both parties and which requires that securities involved in the transaction be held in a safekeeping account subject to the control and custody of the county.

“(d) Investments in security repurchase agreements may be made only with the county depository bank or with state or national banks domiciled in this State.

“(e) In this article ‘security repurchase agreement’ means a simultaneous agreement to buy, hold for a specified time, and then sell back at a future date any of the following securities, obligations, or participation certificates: United States government securities; direct obligations of the United States; obligations the principal and interest of which are guaranteed by the United States; or direct obligations of, or participation certificates guaranteed by, the Federal Intermediate Credit Banks, Federal Land Banks, Federal National Mortgage Association, Federal Home Loan Banks, or Banks for Cooperatives.”

**SECTION 5.** Chapter 14, General Laws, Acts of the 41st Legislature, 4th Called Session, 1930 (Article 2558a, Vernon’s Texas Civil Statutes), is amended by adding Section 4c to read as follows:

“Section 4c. (a) To offset the expense of handling District Clerk and County Clerk Trust Funds for the benefit of litigants in civil proceedings, a county may collect from the nonprevailing party in the litigation or from the party the court shall designate a fee of \$50.

“(b) Funds collected under this section shall be deposited by the County Treasurer in the General Fund of the county.”

**SECTION 6.** Title 61, Revised Statutes, as amended, is amended by adding Article 3943f to read as follows:

“Article 3943f. **OTHER FEES OF COUNTY TREASURER**

“Section 1. County treasurers may collect the following fees from the appropriate individuals, firms, corporations, governmental agencies, governmental representatives, or other legal entities:

“(1) for checks presented to a county in payment of any service, fee, claim, registration, fine, or other cost of the county for which the deposited check was returned to the county by the depository bank of the county or by any other bank due to insufficient funds to cover the check, account closed, signature not authorized, drawn on uncollected funds, or for any other reason deemed the fault of the drawer.....\$15; or

“(2) for placement of a stop-payment order on each check issued by a county for which the county will directly or indirectly be charged by the depository bank of the county or by any other bank.....\$15; or

“(3) for each copy made of a page or part of a page of records, orders, checks, or other papers on file or of record in the treasurer’s office, whether certified or not.....\$1.

“Section 2. Funds received under Section 1 of this article shall be deposited in the general fund of the county to the credit of county treasurer fees of office.”

**SECTION 7.** Section 2, Chapter 467, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1709a, Vernon’s Texas Civil Statutes), as amended by this Act, applies only to the deposit of funds received by a county officer on or after the effective date of this Act. The deposit of funds received before the effective date of this Act is governed by the law in existence at the time the funds were received. The prior law is continued in effect for this purpose as if this Act were not in force.

**SECTION 8.** Chapter 694, Acts of the 66th Legislature, 1979 (Article 1644f, Vernon’s Texas Civil Statutes), is repealed.

**SECTION 9.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional

rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 28, 1985, by a viva-voce vote; Senate concurred in House amendments on May 17, 1985, by a viva-voce vote; passed the House, with amendments, on May 16, 1985, by a non-record vote.

Approved: May 24, 1985

Effective: August 26, 1985