



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

Senate: FICO DP 4-3-0-0 | 3rd Read 16-11-3-0-0

SB 1633: bullion depository; establishment

Sponsor: Senator Hoffman, LD 15

Committee on Ways & Means

Overview

Establishes the Arizona Bullion Depository (Depository). Designates the Department of Insurance and Financial Institutions (DIFI) administrative authority. Outlines duties, procedures on administration and deposits, fees, redemptions, prohibitions, audit requirements and rules.

History

The Department of Insurance and Financial Institutions (DIFI) was established to safeguard the public welfare by licensing, examining and supervising financial institutions and enterprises in compliance with state laws. The Director of DIFI (Director), who is appointed by the Governor, must have business experience and be well versed in financial institution matters, in addition to other prescribed requirements (A.R.S. §§ [6-181](#) and [20-141](#)).

The State Treasurer is responsible for the safekeeping of all securities for which the State Treasurer is the lawful custodian. Securities may be deposited for safekeeping with any bank eligible to be the state servicing bank or any trust company or trust department of any bank qualified to do business in Arizona. The State Treasurer must invest and reinvest trust and treasury monies in outlined obligations, bonds and other permitted investments ([A.R.S. Title 35, Chapter 2, Article 2](#)).

Federal law recognizes coins and currency, including Federal Reserve and national bank notes, as legal tender for the payment of all debts, public charges, taxes and dues. Foreign gold or silver coins are not recognized as legal tender for debt payment purposes. The U.S. Constitution prohibits individual states from coining money, emitting bills of credit and making anything, except for gold and silver coins, legal tender ([31 U.S.C. § 5103](#)).

Provisions

Depository Standards and Reporting Requirements

1. Establishes the Depository, which serves as the custodian, guardian and administrator of certain bullion and specie that may be transferred to or otherwise acquired by Arizona, an agency, political subdivision or other instrumentality of Arizona (governmental entities). (Sec. 1)
2. Designates DIFI to administer the Depository through the Administrator, who is hired by the Director and serves at the discretion of the Director. (Sec. 1)
3. Requires the Depository to provide a secure location for storing bullion. (Sec. 1)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note

4. Allows DIFI to contract with a third party to administer the daily operations of the Depository and implement the Depository security, storage, transactional and administrative procedures in accordance with the Depository's procedures. (Sec. 1)
5. Allows governmental entities to use the Depository to store bullion. (Sec. 1)
6. Allows the State Treasurer to deposit a portion of state monies in the Depository in the form of bullion, which is considered a part of Arizona's financial reserves. (Sec. 1)
7. Requires the Administrator to:
 - a) manage, supervise and direct the operations and affairs of the Depository and Depository agents;
 - b) liaise with DIFI to ensure that each transaction with the Depository that involves state monies, an agency, a political subdivision or another instrumentality of Arizona or a private person is planned, administered and executed; and
 - c) ensure that the Depository has current and efficient safety protocols to prevent theft, fraud or unauthorized access to or removal of bullion. (Sec. 1)
8. Allows the Administrator to:
 - a) appoint or employ, subject to the approval of the Director, a deputy administrator or other subordinate officers or employees as necessary and appropriate to properly effectuate the administration of the Depository; and
 - b) employ security officers to provide security services for the Depository as necessary. (Sec. 1)
9. Allows the Depository to receive a deposit of bullion or specie, in accordance with rules adopted by the Director to ensure compliance with the law and to protect the interests of the public, government entities, the Depository and its account holders. (Sec. 1)
10. Mandates the Depository to:
 - a) record the amount of precious metals a person deposits, regardless of form, in units of pure troy ounces, which must specify the type and quantity of each precious metal deposited; and
 - b) adjust each Depository account balance to reflect additions to or withdrawals or deliveries from the Depository account. (Sec. 1)
11. Requires DIFI to contract with an independent third party that is an established provider with a proven record of providing auditing services to depository institutions to conduct audits at least twice a calendar year to verify the amount and value of the bullion or specie stored in the Depository and to inspect the security measures and safety protocols in place. (Sec. 1)
12. Allows the public to request a summary of totals of previous precious metal amounts and any discrepancies found during an audit that was conducted. (Sec. 1)
13. Prohibits any information that would jeopardize confidential depository information or the Depository's security from being disclosed publicly. (Sec. 1)
14. Prohibits the administrator and any employee, official or third party associated with the oversight or operation of the Depository from having financial interests in companies or entities that produce, sell or manage bullion, and requires them to disclose any potential conflict of interest to DIFI immediately on discovery. (Sec. 1)
15. Allows DIFI to determine the punishment for failure to disclose information regarding conflict of interest. (Sec. 1)

16. Prohibits foreign nations and enemies of the U.S. from using any Depository service. (Sec. 1)
17. Mandates the administrator to provide quarterly reports to DIFI detailing the operations, transactions and financial status of the Depository. (Sec. 1)
18. Requires DIFI to submit an annual report by June 30 of each year to the President of the Senate and the Speaker of the House of Representatives and to provide a copy of the report to the Secretary of State. (Sec. 1)

Transactional Currency Issuance and Redemption

19. Directs the Director to issue specie and establish a transactional currency as the Director determines to be practicable, and to:
 - a) for transactional currency, to establish a means to ensure that:
 - i. a person or Arizona that holds the transactional currency may use that currency as legal tender to pay a debt or may assign the currency to another person or Arizona; and
 - ii. the electronic means of the transfer of transactional currency to another person or Arizona is expedient; and
 - b) for specie, to authorize the Depository as Arizona's exclusive issuer, and to ensure:
 - i. that the holder of specie may use it as legal tender to pay a debt; and
 - ii. that the expedient transfer of transactional currency to another person or Arizona and that specie is readily transferable. (Sec. 1)
20. Allows the Director to contract with a private vendor to establish the transactional currency or perform other duties with the Depository. (Sec. 1)
21. Requires the Director, who serves as trustee, or their designee to:
 - a) hold in trust on behalf of the transactional currency holders all specie and bullion owned or purchased for transactional purposes;
 - b) maintain enough specie or bullion to provide for the redemption of all units of the transactional currency issued but not redeemed; and
 - c) establish a pooled depository account in the Depository to hold in trust as trustee on behalf of the transactional currency holders all specie and bullion owned, allocated or purchased. (Sec. 1)
22. Requires the administrator to issue the transactional currency to a person or Arizona on payment to the Depository to purchase bullion or specie, or both, or to designate bullion or specie, or both, held on account and on payment of an applicable fee. (Sec. 1)
23. Mandates the administrator, when payment is received, to:
 - a) buy specie or bullion using the money received in the amount of troy ounces of precious metal equal to the number of units of transactional currency and issue that transactional currency to the purchaser;
 - b) deposit the specie or bullion into the pooled depository account for the purchaser; and
 - c) issue to the purchaser a depository account with or add to an existing account a number of units of the transactional currency equal to the amount of specie or bullion that the purchase monies received from the depository account holder would buy at the market price on that date as published by the Depository. (Sec. 1)
24. Permits a person who holds transactional currency to present to the administrator any number of units of transactional currency to redeem for U.S. dollars. (Sec. 1)

25. Requires, on receipt of a person's request for redemption, the administrator to:
 - a) sell from the specie or bullion held in the pooled depository account a number of troy ounces of specie or bullion equal to the number of U.S. dollars of the transactional currency that is being redeemed; and
 - b) provide to the person an amount of U.S. dollars equal to the amount received from the sale of specie or bullion, minus a fee charged. (Sec. 1)
26. Permits an account holder who holds transactional currency to present to the administrator any number of units of the transactional currency to redeem for an equal number of troy ounces of specie or bullion from the pooled depository account. (Sec. 1)
27. Requires, on receipt of a person's request for redemption, the administrator to:
 - a) withdraw the equivalent number of troy ounces of specie or bullion from the pooled depository account; and
 - b) deliver the specie or bullion as requested to the requestor on receipt of the fee. (Sec. 1)
28. Mandates the Director to determine the value of a unit of the transactional currency as published by the Directory and directs the value of a unit of transactional currency to be equal to the value of the appropriate fraction of a troy ounce of precious metal as published by the Directory. (Sec. 1)
29. Clarifies that specie, bullion and monies in the pooled depository are held by the directory as trustee on behalf of persons who hold the transactional currency and are unavailable for legislative appropriation. (Sec. 1)

Fees and Rulemaking Authority

30. Requires DIFI to establish the prescribed fees and adopt rules for Arizona's use of the Depository. (Sec. 1)
31. Authorizes DIFI to use up to 10 percent of the prescribed fees for Depository administration. (Sec. 1)
32. Allows DIFI to charge a standard industry merchant fee. (Sec. 1)
33. Requires the Director to deposit the net fee proceeds after administrative costs in the state general fund. (Sec. 1)
34. Allows the Director to adopt rules as necessary or convenient to:
 - a) ensure the security of specie, bullion, transactional currency, transactions and related data; and
 - b) prevent fraud and the release of any Depository account information or Depository account holder-related data subject to a court order. (Sec. 1)

Miscellaneous

35. Defines *bullion, deposit, depositor, depository, depository account, depository account holder, depository agent, pooled depository account, precious metal, specie* and *transactional currency*. (Sec. 1)