

Committee Substitute for Senate Bill No. 2130

An act relating to public deposits; amending s. 280.02, F.S.; defining the terms “affiliate,” “book-entry form,” “operating subsidiary,” “pledged collateral,” “pledgor,” “pool figure,” “Treasurer’s custody,” and “triggering events” and redefining the terms “collateral-pledging level” and “public deposit”; amending s. 280.04, F.S.; revising general provisions relating to collateral for public deposits; creating s. 280.041, F.S.; prescribing requirements for collateral arrangements; providing duties and powers of the Treasurer; prescribing duties and powers of depositories; amending s. 280.13, F.S.; revising the list of securities eligible to be pledged as collateral; amending s. 625.52, F.S.; revising requirements for certificates of deposit to constitute securities eligible for deposit; amending s. 660.27, F.S.; providing requirements for deposit of securities with the Treasurer; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 280.02, Florida Statutes, is amended to read:

280.02 Definitions.—As used in this chapter, the term:

(1) “Affiliate” means an entity that is related through a parent corporation’s controlling interest. The term also includes any financial institution holding company or any subsidiary or service corporation of such holding company.

(2)(4) “Average daily balance” means the average daily balance of public deposits held during the reported month. The average daily balance must be determined by totaling, by account, the daily balances held by the depositor and then dividing the total by the number of calendar days in the month. Deposit insurance is then deducted from each account balance and the resulting amounts are totaled to obtain the average daily balance.

(3)(2) “Average monthly balance” means the average monthly balance of public deposits held, before deducting deposit insurance, by the depository during any 12 calendar months. The average monthly balance of the previous 12 calendar months must be determined by adding the average daily balance before deducting deposit insurance for the reported month and the average daily balances before deducting deposit insurance for the 11 months preceding that month and dividing the total by 12.

(4) “Book-entry form” means that securities are not represented by a paper certificate but represented by an account entry on the records of a depository trust clearing system or, in the case of U.S. Government securities, a Federal Reserve Bank.

(5)(3) “Capital account” means total equity capital, as defined on the balance-sheet portion of the Consolidated Reports of Condition and Income

(call report) or the Thrift Financial Report, less intangible assets, as submitted to the regulatory banking authority.

(6)~~(4)~~ “Collateral-pledging level,” for qualified public depositories, means the percentage of collateral required to be pledged as provided in s. 280.04 by a financial institution.

(7)~~(5)~~ “Current month” means the month immediately following the month for which the monthly report is due from qualified public depositories.

(8)~~(6)~~ “Custodian” means the Treasurer or any bank, savings association, or trust company that:

(a) Is organized and existing under the laws of this state, any other state, or the United States;

(b) Has executed all forms required under this chapter or any rule adopted hereunder;

(c) Agrees to be subject to the jurisdiction of the courts of this state, or of courts of the United States which are located within this state, for the purpose of any litigation arising out of this chapter; and

(d) Has been approved by the Treasurer to act as a custodian.

(9)~~(7)~~ “Default or insolvency” includes, without limitation, the failure or refusal of a qualified public depository to pay any check or warrant drawn upon sufficient and collected funds by any public depositor or to return any deposit on demand or at maturity together with interest as agreed; the issuance of an order by any supervisory authority restraining such depository from making payments of deposit liabilities; or the appointment of a receiver for such depository.

(10)~~(8)~~ “Effective date of notice of withdrawal or order of discontinuance” pursuant to s. 280.11(3) means that date which is set out as such in any notice of withdrawal or order of discontinuance from the Treasurer.

(11)~~(9)~~ “Eligible collateral” means securities as designated in s. 280.13.

(12)~~(10)~~ “Financial institution” means, including, but not limited to, an association, bank, brokerage firm, credit union, industrial savings bank, savings and loan association, trust company, or other type of financial institution organized under the laws of this state or any other state of the United States and doing business in this state or any other state, in the general nature of the business conducted by banks and savings associations.

(13)~~(11)~~ “Governmental unit” means the state or any county, school district, community college district, special district, metropolitan government, or municipality, including any agency, board, bureau, commission, and institution of any of such entities, or any court.

(14)~~(12)~~ “Loss to public depositors” means loss of all principal and all interest or other earnings on the principal accrued or accruing as of the date the qualified public depository was declared in default or insolvent.

(15) “Operating subsidiary” means the qualified public depository’s 100-percent owned corporation that has ownership of pledged collateral. The operating subsidiary may have no powers beyond those that its parent qualified public depository may itself exercise. The use of an operating subsidiary is at the discretion of the qualified public depository and must meet the Treasurer’s requirements.

(16) “Pledged collateral” means securities or cash held separately and distinctly by an eligible custodian for the benefit of the Treasurer to be used as security for Florida public deposits. This includes maturity and call proceeds.

(17) “Pledgor” means the qualified public depository and, if one is used, operating subsidiary.

(18) “Pool figure” means the total average monthly balances of public deposits held by all qualified public depositories during the immediately preceding 12-month period.

(19)(13) “Previous month” means the month or months immediately preceding the month for which a monthly report is due from qualified public depositories.

(20)(14) “Public deposit” means the moneys of the state or of any county, school district, community college district, special district, metropolitan government, or municipality, including agencies, boards, bureaus, commissions, and institutions of any of the foregoing, or of any court, and includes the moneys of all county officers, including constitutional officers, that are placed on deposit in a bank, savings bank, or savings association and for which the bank, savings bank, or savings association is required to maintain reserves. This includes, including, but is not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposit. All certificates of deposit, whether negotiable or nonnegotiable, shall be considered deposits and shall be subject to the provisions of this chapter. Moneys in deposit notes and in other nondeposit accounts such as used in repurchase or reverse repurchase operations are investments and are not public deposits as defined in this subsection. Securities, mutual funds, and similar types of investments are not considered public deposits and shall not be subject to the provisions of this chapter.

(21)(15) “Public depositor” means the Treasurer or other chief financial officer or designee responsible for handling public deposits.

(22)(16) “Public deposits program” means the administration of this chapter by or on behalf of the Treasurer.

(23)(17) “Qualified public depository” means any bank, savings bank, or savings association that:

(a) Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States.

(b) Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.

(c) Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss. 1811 et seq.

(d) Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits.

(e) Meets all the requirements of this chapter.

(f) Has been designated by the Treasurer as a qualified public depository.

(24)(18) “Reported month” means the month for which a monthly report is due from qualified public depositories.

(25)(19) “Required collateral” of a qualified public depository means eligible collateral having a market value equal to or in excess of the amount required to be pledged pursuant to s. 280.04 as computed and reported monthly or when requested by the Treasurer.

(26)(20) “Treasurer” means the Treasurer of the State of Florida.

(27) “Treasurer’s custody” is a collateral arrangement governed by a contract between a designated Treasurer’s custodian and the Treasurer. This arrangement requires collateral to be in the Treasurer’s name in order to perfect the security interest.

(28) “Triggering events” are events set out in subsection 280.041(4) which give the Treasurer, as pledgee, the right to instruct the custodian to transfer securities pledged, interest payments, and other proceeds of pledged collateral not previously credited to the pledgor.

Section 2. Section 280.04, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 280.04, F.S., for present text.)

280.04 Collateral for public deposits; general provisions.—

(1) The Treasurer shall determine the collateral requirements and collateral pledging level for each qualified public depository following procedures established by rule. These procedures shall include numerical parameters for 25-percent, 50-percent, 125-percent, and 200-percent pledge levels based on nationally recognized financial rating services information and established financial performance guidelines.

(2) A qualified public depository may not accept or retain any public deposit which is required to be secured unless it has deposited with the Treasurer eligible collateral at least equal to the greater of:

(a) The average daily balance of public deposits that does not exceed the lesser of its capital account or 20 percent of the pool figure multiplied by the depository’s collateral-pledging level, plus the greater of:

1. One hundred twenty-five percent of the average daily balance of public deposits in excess of capital accounts; or

2. One hundred twenty-five percent of the average daily balance of public deposits in excess of 20 percent of the pool figure.

(b) Twenty-five percent of the average monthly balance of public deposits.

(c) One hundred twenty-five percent of the average daily balance of public deposits if the qualified public depository:

1. Has been established for less than 3 years;

2. Has experienced material decreases in its capital accounts; or

3. Has an overall financial condition that is materially deteriorating.

(d) Two hundred percent of an established maximum amount of public deposits that has been mutually agreed upon by and between the Treasurer and the qualified public depository.

(e) Minimum required collateral of \$100,000.

(3) Additional collateral is required within 48 hours if public deposits are accepted that would increase the qualified public depository's average daily balance for the current month by 25 percent over the average daily balance of the previously reported month.

(4) Additional collateral of 20 percent of required collateral is necessary if a valuation date other than the close of business as described below has been approved for the qualified public depository and the required collateral is found to be insufficient based on the Treasurer's valuation.

(5) Each qualified public depository shall value its collateral in the following manner; it must:

(a) Use a nationally recognized source.

(b) Use market price, quality ratings, and pay-down factors as of the close of business on the last banking day in the reported month, or as of a date approved by the Treasurer.

(c) Report any material decline in value that occurs before the date of mailing the monthly report to the Treasurer.

Section 3. Section 280.041, Florida Statutes, is created to read:

280.041 Collateral arrangements; agreements, provisions, and triggering events.—

(1) With the approval of the Treasurer, a qualified public depository or operating subsidiary, as pledgor, may deposit eligible collateral with a custodian. Except in the case of using a Federal Reserve Bank as custodian, which may require other collateral agreement provisions, the following are necessary for the Treasurer's approval:

(a) A completed collateral agreement in a form prescribed by the Treasurer in which the pledgor agrees to the following provisions:

1. The pledgor shall own the pledged collateral. The pledged collateral shall be eligible collateral and shall be at least equal to the amount of required collateral.

2. The pledgor shall grant to the Treasurer an interest in pledged collateral for the purposes of this section. The pledgor shall not enter into or execute any other agreement related to the pledged collateral that would create an interest in or lien on that collateral in any manner in favor of any third party without the written consent of the Treasurer.

3. The pledgor shall not grant the custodian any lien that attaches to the collateral in favor of the custodian that is superior or equal to the security interest of the Treasurer.

4. The pledgor shall agree that the Treasurer may, without notice to or consent by the pledgor, require the custodian to comply with and perform any and all requests and orders directly from the Treasurer. These include, but are not limited to, liquidating all collateral and submitting the proceeds directly to the Treasurer in the name of the Treasurer only or transferring all collateral into an account designated solely by the Treasurer.

5. The pledgor shall acknowledge that the Treasurer may, without notice to or consent by the pledgor, require the custodian to hold principal payments and income for the benefit of the Treasurer.

6. The pledgor shall initiate collateral transactions on forms prescribed by the Treasurer in the following manner:

a. A deposit transaction of eligible collateral may be made without prior approval from the Treasurer provided: security types that have restrictions have been approved in advance of the transaction by the Treasurer and simultaneous notification is given to the Treasurer; and the custodian has not received notice from the Treasurer prohibiting deposits without prior approval.

b. A substitution transaction of eligible collateral may be made without prior approval from the Treasurer provided: security types that have restrictions have been approved in advance of the transaction by the Treasurer; the market value of the securities to be substituted is at least equal to the amount withdrawn; simultaneous notification is given to the Treasurer; and the custodian has not received notice from the Treasurer prohibiting substitution.

c. A transfer of collateral between accounts at a custodian requires the Treasurer's prior approval. The collateral shall be released subject to re-deposit in the new account with a pledge to the Treasurer intact.

d. A transfer of collateral from a custodian to another custodian requires the Treasurer's prior approval and a valid collateral agreement with the new custodian. The collateral shall be released subject to re-deposit at the new custodian with a pledge to the Treasurer intact.

e. A withdrawal transaction requires the Treasurer's prior approval. The market value of eligible collateral remaining after the withdrawal shall be at least equal to the amount of required collateral. A withdrawal transaction shall be executed for any release of collateral including maturity or call proceeds.

f. Written notice shall be sent to the Treasurer to remove from the inventory of pledged collateral a pay-down security that has paid out with zero principal remaining.

7. If pledged collateral includes definitive (physical) securities in registered form which are in the name of the pledgor or a nominee, the pledgor shall deliver the following documents when requested by the Treasurer:

a. A separate certified power of attorney in a form prescribed by the Treasurer for each issue of securities.

b. Separate bond assignment forms as required by the bond agent or trustee.

c. Certified copies of resolutions adopted by the pledgor's governing body authorizing execution of these documents.

8. The pledgor shall be responsible for all costs necessary to the functioning of the collateral agreement or associated with confirmation of pledged collateral to the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer or his or her interests in the pledged collateral.

9. The pledgor, if notified by the Treasurer, shall not be allowed to use a custodian if that custodian fails to complete the collateral agreement, releases pledged collateral without the Treasurer's approval, fails to properly complete confirmations of pledged collateral, fails to honor a request for examination of definitive pledged collateral and records of book-entry securities, or fails to provide requested documents on definitive securities.

10. The pledgor shall be subject to the jurisdiction of the courts of the state of Florida, or of courts of the United States located within the state of Florida, for the purpose of any litigation arising out of the act.

11. The pledgor is responsible and liable to the Treasurer for any action of agents the pledgor uses to execute collateral transactions or submit reports to the Treasurer.

12. The pledgor shall agree that any information, forms, or reports electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

13. The pledgor shall submit proof that authorized individuals executed the collateral agreement on behalf of the pledgor.

14. The pledgor shall agree by resolution of the board of directors that collateral agreements entered into for purposes of this section have been formally accepted and constitute official records of the pledgor.

15. The pledgor shall be bound by any other provisions found necessary for a perfected security interest in collateral under the Uniform Commercial Code.

(b) A completed collateral agreement in a form prescribed by the Treasurer in which the custodian agrees to the following provisions:

1. The custodian shall have no responsibility to ascertain whether the pledged securities are at least equal to the amount of required collateral nor whether the pledged securities are eligible collateral.

2. The custodian shall hold pledged collateral in a custody account for the Treasurer for purposes of this section. The custodian shall not enter into or execute any other agreement related to the collateral that would create an interest in or lien on that collateral in any manner in favor of any third party without the written consent of the Treasurer.

3. The custodian shall agree that any lien that attaches to the collateral in favor of the custodian shall not be superior or equal to the security interest of the Treasurer.

4. The custodian shall, without notice to or consent by the pledgor, comply with and perform any and all requests and orders directly from the Treasurer. These include, but are not limited to, liquidating all collateral and submitting the proceeds directly to the Treasurer in the name of the Treasurer only or transferring all collateral into an account designated solely by the Treasurer.

5. The custodian shall consider principal payments on pay-down securities and income paid on pledged collateral as the property of the pledgor and shall pay thereto provided the custodian has not received written notice from the Treasurer to hold such principal payments and income for the benefit of the Treasurer.

6. The custodian shall process collateral transactions on forms prescribed by the Treasurer in the following manner:

a. A deposit transaction of eligible collateral may be made without prior approval from the Treasurer unless the custodian has received notice from the Treasurer requiring the Treasurer's prior approval.

b. A substitution transaction of eligible collateral may be made without prior approval from the Treasurer provided the pledgor certifies the market value of the securities to be substituted is at least equal to the market value amount of the securities to be withdrawn and the custodian has not received notice from the Treasurer prohibiting substitution.

c. A transfer of collateral between accounts at a custodian requires the Treasurer's prior approval. The collateral shall be released subject to re-deposit in the new account with a pledge to the Treasurer intact. Confirmation from the custodian to the Treasurer must be received within 5 business days of the re-deposit.

d. A transfer of collateral from a custodian to another custodian requires the Treasurer's prior approval. The collateral shall be released subject to redeposit at the new custodian with a pledge to the Treasurer intact. Confirmation from the new custodian to the Treasurer must be received within 5 business days of the redeposit.

e. A withdrawal transaction requires the Treasurer's prior approval. A withdrawal transaction shall be executed for the release of any pledged collateral including maturity or call proceeds.

7. If pledged collateral includes definitive (physical) securities in registered form, which are in the name of the custodian or a nominee, the custodian shall deliver the following documents when requested by the Treasurer:

a. A separate certified power of attorney in a form prescribed by the Treasurer for each issue of securities.

b. Separate bond assignment forms as required by the bond agent or trustee.

c. Certified copies of resolutions adopted by the custodian's governing body authorizing execution of these documents.

8. The custodian shall acknowledge that the pledgor is responsible for all costs necessary to the functioning of the collateral agreement or associated with confirmation of securities pledged to the Treasurer and that these costs shall not be a charge against the Treasurer or his or her interests in the pledged collateral.

9. The custodian shall agree to provide confirmation of pledged collateral upon request from the Treasurer. This confirmation shall be provided within 15 working days after the request, in a format prescribed by the Treasurer, and shall require no identification other than the pledgor name and location, unless the special identification is provided in the collateral agreement.

10. The custodian shall be subject to the jurisdiction of the courts of the state of Florida, or of courts of the United States located within the state of Florida, for the purpose of any litigation arising out of the act.

11. The custodian shall be responsible and liable to the Treasurer for any action of agents the custodian uses to hold and service collateral pledged to the Treasurer.

12. The custodian shall agree that any information, forms, or reports electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

13. The Treasurer shall have the right to examine definitive pledged collateral and records of book-entry securities during the regular business hours of the custodian without cost to the Treasurer.

14. The responsibilities of the custodian for the safekeeping of the pledged collateral shall be limited to the diligence and care usually exercised by a banking or trust institution toward its own property.

15. The custodian shall be bound by any other provisions found necessary for the Treasurer to have a perfected security interest in collateral under the Uniform Commercial Code.

(2) With the approval of the Treasurer, a pledgor may deposit eligible collateral pursuant to an agreement with a Federal Reserve Bank. The Federal Reserve Bank agreement may require terms not consistent with subsection (1).

(3) The Treasurer may require deposit or transfer of collateral into a custodial account established in the Treasurer's name at a designated custodian. This requirement for Treasurer's custody shall have the following characteristics:

(a) One or more triggering events must have occurred.

(b) The custodian used must be a Treasurer's approved custodian that must:

1. Meet the definition of custodian.

2. Not be an affiliate of the qualified public depository.

3. Be bound under a distinct Treasurer's custodial contract.

(c) All deposit transactions require the approval of the Treasurer.

(d) All collateral must be in book-entry form.

(e) The qualified public depository shall be responsible for all costs necessary to the functioning of the contract or associated with the confirmation of securities in the name of the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer and may be deducted from the collateral or income earned if unpaid.

(4) The Treasurer may direct a custodian to deposit or transfer collateral and proceeds of securities not previously credited upon the occurrence of one or more triggering events provided that, to the extent not incompatible with the protection of public deposits, as determined in the Treasurer's sole and absolute discretion, the Treasurer shall provide a custodian with 48 hours' advance notice before directing such deposit or transfer. These events include:

(a) The Treasurer determines that an immediate danger to the public health, safety, or welfare exists.

(b) The qualified public depository fails to have adequate procedures and practices for the accurate identification, classification, reporting, and collateralization of public deposits.

(c) The custodian fails to provide or allow inspection and verification of documents, reports, records, or other information dealing with the pledged collateral or financial information.

(d) The qualified public depository or its operating subsidiary fails to provide or allow inspection and verification of documents, reports, records, or other information dealing with Florida public deposits, pledged collateral, or financial information.

(e) The custodian fails to hold income and principal payments made on securities held as collateral or fails to deposit or transfer such payments pursuant to the Treasurer's instructions.

(f) The qualified public depository defaults or becomes insolvent.

(g) The qualified public depository fails to pay an assessment.

(h) The qualified public depository fails to pay an administrative penalty.

(i) The qualified public depository fails to meet financial condition standards.

(j) The qualified public depository charges a withdrawal penalty to public depositors when the qualified public depository is suspended, disqualified, or withdrawn from the public deposits program.

(k) The qualified public depository does not provide, as required, the public depositor with annual confirmation information on all open Florida public deposit accounts.

(l) The qualified public depository pledges insufficient or unacceptable collateral to cover public deposits.

(m) Pledged collateral, other than a proper substitution, is released without the prior approval of the Treasurer.

(n) The qualified public depository, custodian, operating subsidiary, or agent violates any provision of the act and the Treasurer determines that such violation may be remedied by a move of collateral.

(o) The qualified public depository, custodian, operating subsidiary, or agent fails to timely cooperate in resolving problems by the date established in written communication from the Treasurer.

(p) The custodian fails to provide sufficient confirmation information.

(q) Events that would bring about an administrative or legal action by the Treasurer.

(5) The Treasurer shall adopt rules to identify forms and establish procedures for collateral agreements and transactions, furnish confirmation requirements, establish procedures for using an operating subsidiary and agents, and clarify terms.

Section 4. Paragraph (c) of subsection (1) and subsection (2) of section 280.13, Florida Statutes, are amended to read:

280.13 Collateral eligible for pledge by banks and savings associations.—

(1) Securities eligible to be pledged as collateral by banks and savings associations shall be limited to:

(c) Obligations of the following federal agencies:

1. Farm credit banks.
2. Federal land banks.
3. The Federal Home Loan Bank and its district banks, ~~including time deposits.~~
4. Federal intermediate credit banks.
5. The Federal Home Loan Mortgage Corporation.
6. The Federal National Mortgage Association.
7. Obligations guaranteed by the Government National Mortgage Association.

(2) In addition to the securities listed in subsection (1), the Treasurer may, in his or her discretion, allow the pledge of the following types of securities. The Treasurer shall, by rule, define any restrictions, specific criteria, or circumstances for which these instruments will be acceptable.

(a) Securities of, or other interests in, any open-end management investment company registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided the portfolio of such investment company is limited to direct obligations of the United States Government and to repurchase agreements fully collateralized by such direct obligations of the United States Government and provided such investment company takes delivery of such collateral either directly or through an authorized custodian.

(b) Collateralized Mortgage Obligations.

(c) Real Estate Mortgage Investment Conduits.

~~(d) Certificates of deposit.~~

Section 5. Paragraph (g) of subsection (2) and subsection (3) of section 625.52, Florida Statutes, are amended to read:

625.52 Securities eligible for deposit.—

(2) To be eligible for deposit under subsection (1), any bond or note must have the following characteristics:

(g) ~~After October 1, 1992,~~ The bond or note must be eligible for book-entry form on the books of the Federal Reserve Book-Entry System or in a depository trust clearing system.

(3) To be eligible for deposit under paragraph (1)(h) ~~subsection (1)~~, any certificate of deposit must have the following characteristics:

(a) ~~The certificate of deposit must be issued by a bank, savings bank, or savings association that is organized under the laws of the United States, of this state, or of any other state and that has a principal office or branch office in this state which is authorized to receive deposits in this state qualified public depository as defined in s. 280.02(17), and the depository must conform to and be bound by all provisions of chapter 280 with regard to such funds.~~

(b) The certificate of deposit must be interest-bearing and may not be issued in discounted form.

(c) The certificate of deposit must be issued for a period of not less than 1 year.

(d) ~~The issuing bank, savings bank, or savings association qualified public depository must agree to the terms and conditions of the State Treasurer regarding the rights to the certificate of deposit and must have executed a provide written certificate of deposit confirmation of such agreement with to the State Treasurer. The terms and conditions of such agreement shall must include, but need not be limited to:~~

1. Exclusive authorized signature authority for the State Treasurer.

2. ~~Agreement to pay, without protest, the proceeds of its certificate of deposit to the department within thirty business days after presentation. If the depository fails to pay the proceeds, the State Treasurer may take legal title to, and sell, sufficient securities of the depository held pursuant to chapter 280 to pay to the department the face value of the certificate of deposit.~~

3. Prohibition against levies, setoffs, survivorship, or other conditions that might hinder the department's ability to recover the full face value of a certificate of deposit.

4. Instructions regarding interest payments, renewals, taxpayer identification, and early withdrawal penalties.

5. Agreement to be subject to the jurisdiction of the courts of this state, or those of the United States which are located in this state, for the purposes of any litigation arising out of this section.

~~6.5.~~ Such other conditions as the department requires ~~may require~~.

Section 6. Section 660.27, Florida Statutes, is amended to read:

660.27 Deposit of securities with Treasurer.—

(1) Before transacting any trust business in this state, every trust company and every state or national bank or state or federal association having trust powers shall give satisfactory security by the deposit or pledge of security of the kind or type provided in this section having at all times a market value in an amount equal to 25 percent of the issued and outstanding capital stock of such trust company, bank, or state or federal stock association or, in the case of a federal mutual association, an equivalent amount

determined by the department, or the sum of \$25,000, whichever is greater. However, the value of the security deposited or pledged pursuant to the provisions of this section ~~by a state trust company, a state bank or state association having trust powers, or a national bank or federal association having its principal office in this state and having trust powers~~ shall not be required to exceed \$500,000. Any notes, mortgages, bonds, or other securities, other than shares of stock, eligible for investment by a state bank, state association, or state trust company, or eligible for investment by fiduciaries, shall be accepted as satisfactory security for the purposes of this section.

(2) The trust company, bank, or association shall provide to the Treasurer the following:

(a) Written information which includes full legal name; federal employer identification number; principal place of business; amount of capital stock; and amount of required collateral.

(b) The required information listed in paragraph (a) shall be provided annually as of September 30 and shall be due November 15.

~~(3)~~(2) The Treasurer shall determine whether the security deposited or pledged pursuant to this section, or tendered for such deposit or pledge, is of the kind or type permitted, and has a market value in the amount required, by subsection (1). The security required by this section shall be deposited with or to the credit of, or pledged to, the Treasurer for the account of each state or national bank, state or federal association, or trust company depositing or pledging the same and shall be used, if at all, by the liquidator of such bank, association, or trust company with first priority being given to claims on account of the trust business or fiduciary functions of such bank, association, or trust company or, prior to liquidation, for the payment of any judgment or decree which may be rendered against such bank, association, or trust company in connection with its trust business or its fiduciary functions if such judgment or decree is not otherwise paid by, or out of other assets of, such bank, association, or trust company.

~~(4)~~(3) Any security of any kind which has been deposited or pledged as provided in this section may at any time, by or upon the direction of such bank, association, or trust company which deposited or pledged such security, be withdrawn and released from such pledge provided that simultaneously therewith satisfactory security as provided in this section, in such amount, if any, as may be necessary in order to comply with the requirements of this section, is substituted for the security so withdrawn and released.

(5) With the approval of the Treasurer, each trust company, bank, or association as pledgor may deposit eligible collateral with a custodian. This custodian shall not be affiliated or related to the trust company, bank, or association. Collateral must be deposited using the collateral agreements and provisions as set forth in s. 280.041(1)(2). With respect to the deposit or pledge of securities as provided in this section, the Treasurer may accept a safekeeping receipt, in a form he or she prescribes, issued by another bank, trust company, or savings association located within or without the state.

Section 7. This act shall take effect July 1, 2000.

Approved by the Governor June 21, 2000.

Filed in Office Secretary of State June 21, 2000.