

House Bill No. 625

An act relating to security for public deposits; amending ss. 280.02, 280.04, 280.041, 280.05, 280.051, 280.054, 280.055, 280.07, 280.08, 280.09, 280.10, 280.11, 280.13, and 280.16, F.S.; revising definitions; revising provisions requiring collateral for public deposits; providing for use of certain letters of credit; requiring additional collateral under certain circumstances; providing penalties; specifying certain agreements for use as collateral; prohibiting a qualified public depository from acting as its own custodian; authorizing a custodian to withdraw as custodian under certain circumstances; authorizing use of certain letters of credit; providing requirements; revising triggering events for certain actions by the Treasurer; revising powers and duties of the Treasurer; clarifying grounds for suspension or disqualification of a qualified public depository; revising conditions for imposition of an administrative penalty; clarifying criteria for the Treasurer to issue certain orders; providing for contingent liability; clarifying procedures for payment of losses; providing for deposit of draws on letters of credit into the Public Deposits Trust Fund; revising procedures and requirements relating to effect of mergers, acquisitions, or consolidations; providing conditions for eligibility of certain letters of credit as collateral; clarifying requirements of qualified public depositories; creating s. 280.071, F.S.; creating the Qualified Public Depository Oversight Board; providing purposes; requiring the Treasurer to initiate selection of board members; providing for selection of board members by certain qualified public depositories; providing qualifications; providing powers and duties of the board; authorizing the Treasurer to adopt rules for certain purposes; providing effective dates.

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) “Alternative participation agreement” means an agreement of restrictions that a qualified public depository completes as an alternative to immediately withdrawing from the public deposits program due to financial condition.

(3)(2) “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.

~~(4)~~⁽³⁾ “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.

~~(5)~~⁽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 United States Government securities, a Federal Reserve Bank.

~~(6)~~⁽⁵⁾ “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.

~~(7)~~⁽⁶⁾ “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.

~~(8)~~⁽⁷⁾ “Current month” means the month immediately following the month for which the monthly report is due from qualified public depositories.

~~(9)~~⁽⁸⁾ “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.

~~(10)~~⁽⁹⁾ “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.

~~(11)~~⁽¹⁰⁾ “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.

(12)(41) “Eligible collateral” means securities, Federal Home Loan Bank letters of credit, and cash, as designated in s. 280.13.

(13)(42) “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.

(14)(43) “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.

(15)(44) “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.

(16) “Market value” means the value of collateral calculated pursuant to s. 280.04.

(17)(45) “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.

(18) “Oversight board” means the qualified public depository oversight board created in s. 280.071 for the purpose of safeguarding the integrity of the public deposits program and preventing the realization of loss assessments through standards, policies, and recommendations for actions to the Treasurer.

(19)(46) “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.

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

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

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

(23)(20) “Public deposit” means the moneys of the state or of any county, school district, community college district, special district, metropolitan gov-

ernment, 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, but is not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposit. Moneys in deposit notes and in other nondeposit accounts such as repurchase or reverse repurchase operations are not public deposits. Securities, mutual funds, and similar types of investments are not considered public deposits and shall not be subject to the provisions of this chapter.

~~(24)~~⁽²¹⁾ “Public depositor” means the Treasurer or other chief financial officer or designee responsible for handling public deposits.

~~(25)~~⁽²²⁾ “Public deposits program” means the Florida Security for Public Deposits Act contained in administration of this chapter and any rule adopted under this chapter ~~by or on behalf of the Treasurer.~~

~~(26)~~⁽²³⁾ “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.

~~(27)~~⁽²⁴⁾ “Reported month” means the month for which a monthly report is due from qualified public depositories.

~~(28)~~⁽²⁵⁾ “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.~~

~~(29)~~⁽²⁶⁾ “Treasurer” means the Treasurer of the State of Florida.

~~(30)~~⁽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.

(31)(28) “Triggering events” are events set out in section subsection 280.041(4) which give the Treasurer, ~~as pledgee,~~ the right to:

(a) Instruct the custodian to transfer securities pledged, interest payments, and other proceeds of pledged collateral not previously credited to the pledgor.

(b) Demand payment under letters of credit.

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

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.

(f) An amount as required in special instructions from the Treasurer to protect the integrity of the public deposits program.

(3) Each qualified public depository shall report its required collateral on the monthly report required in s. 280.16 and simultaneously pledge, deposit, or issue eligible collateral needed.

~~(4)~~(3) Additional collateral is required within 2 business days ~~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.

~~(5)~~(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.

~~(6)~~(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, required in s. 280.16, to the Treasurer.

(d) Use 100 percent of the maximum amount available under Federal Home Loan Bank letters of credit as market value.

(7) A qualified public depository shall pledge, deposit, or issue additional eligible collateral between filing periods of the monthly report required in s. 280.16 when notified by the Treasurer that current market value of collateral does not meet required collateral. The pledge, deposit, or issuance of such additional collateral shall be made within 2 business days after the Treasurer's notification.

(8) A qualified public depository may be required to return public deposits to governmental units and be suspended or disqualified or subjected to administrative penalty as provided in s. 280.051 or s. 280.054 for failure to meet required collateral.

(9) The Treasurer shall adopt rules for the establishment of collateral requirements, collateral pledging levels, required collateral calculations, and market value and clarifying terms.

Section 3. Effective July 1, 2001, section 280.041, Florida Statutes, is amended to read:

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

(1) Eligible collateral listed in s. 280.13 may be pledged, deposited, or issued using the following collateral arrangements as approved by the

Treasurer for a qualified public depository or operating subsidiary, if one is used, to meet required collateral:

(a) Regular custody arrangement for collateral pledged to the Treasurer pursuant to subsection (2).

(b) Federal Reserve Bank custody arrangement for collateral pledged to the Treasurer pursuant to subsection (3).

(c) Treasurer's custody arrangement for collateral deposited in the Treasurer's name pursuant to subsection (4).

(d) Federal Home Loan Bank letter of credit arrangement for collateral issued with the Treasurer as beneficiary pursuant to subsection (5).

(e) Cash arrangement for collateral held by the Treasurer or a custodian.

(2)(4) With the approval of the Treasurer, a qualified public depository or operating subsidiary, as pledgor, may deposit eligible collateral with a custodian. A qualified public depository shall not act as its own 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 and acknowledge that the Treasurer has a perfected security interest. 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 redeposit 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. The period for disallowing the use of a custodian shall be 1 year.

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 re-deposit 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 re-deposit.

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. If there is any change in the Uniform Commercial Code, as adopted by law in this state, which affects the requirements for a perfected security interest in collateral, the Treasurer shall notify the custodian of such change. The custodian shall have a period of 180 calendar days after such notice to withdraw as custodian if the custodian cannot provide the required custodial services. 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.

~~(3)(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 (2) but may not subject the Treasurer to any costs or indemnification requirements ~~(4)~~.

~~(4)(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.

(5) With the approval of the Treasurer, a qualified public depository may use Federal Home Loan Bank letters of credit to meet collateral requirements. A completed agreement that includes the following provisions is necessary for the Treasurer's approval:

(a) The letter of credit shall meet the definition of eligible collateral.

(b) The qualified public depository shall agree that the Treasurer, as beneficiary, may, without notice to or consent by the qualified public depository, demand payment under the letter of credit if any of the triggering events listed in s. 280.041 occur.

(c) The qualified public depository shall agree that funds received by the Treasurer due to the occurrence of one or more triggering events may be deposited in the Treasury Cash Deposit Trust Fund for purposes of eligible collateral.

(d) The qualified public depository shall arrange for the issue of letters of credit which meet the requirements of s. 280.13 and delivery to the Treasurer. All transactions involving letters of credit require the Treasurer's approval.

(e) The qualified public depository shall be responsible for all costs necessary in the use or confirmation of letters of credit issued on behalf of the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer.

(f) The qualified public depository shall 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 the act.

(g) The qualified public depository shall agree that any information, form, or report electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

(h) The qualified public depository shall submit proof that authorized individuals executed the letters of credit agreement on its behalf.

(i) The qualified public depository shall agree by resolution of the board of directors that the letters of credit agreements entered into for purposes of this section have been formally accepted and constitute official records of the qualified public depository.

~~(6)~~(4) The Treasurer may demand payment under a letter of credit or 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 and the qualified public depository 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, deposits, or has issued insufficient or unacceptable collateral to meet required collateral within the required time 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) The Federal Home Loan Bank or the qualified public depository gives notification that a letter of credit will not be extended or renewed and other eligible collateral equal to required collateral has not been deposited within 30 days after the notice or 30 days before expiration of the letter of credit.

(r) The qualified public depository, if involved in a merger, acquisition, consolidation, or other organizational change, fails to notify the Treasurer or ensure that required collateral is properly maintained by the depository holding the Florida public deposits.

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

~~(7)(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. Section 280.05, Florida Statutes, is amended to read:

280.05 Powers and duties of the Treasurer.—In fulfilling the requirements of this act, the Treasurer has the power to take the following actions he or she deems necessary to protect the integrity of the public deposits program:

(1) Identify representative qualified public depositories and furnish notification for the qualified public depository oversight board selection pursuant to s. 280.071. Establish criteria, based on the overall financial condition of the participant and applicants, as may be necessary, to protect the integrity of the public deposits program, to:

(a) Refuse entry into the program by an applicant;

(b) Order discontinuance of participation in the program by a qualified public depository;

(c) Restrict the total amount of public deposits a depository may hold;

~~(d) Establish collateral-pledging levels based on qualitative and quantitative standards; and~~

~~(e) Restrict substitutions of collateral subject to the approval of the Treasurer.~~

~~(2) Appoint a six-member advisory committee to review and recommend criteria to be used by the Treasurer for purposes stated in subsection (1) in order to protect public deposits and the depositories in the program. Each member selected to serve on the advisory committee must be a representative of his or her industry. Advisory committee members must represent active qualified public depositories, not in the process of withdrawing from the public deposits program, in compliance with all applicable rules, regulations, and reporting requirements of this chapter. Members must possess knowledge, skill, and experience in one or more of the following areas:~~

~~(a) Financial analysis;~~

~~(b) Trend analysis;~~

~~(c) Accounting;~~

~~(d) Banking;~~

~~(e) Risk management; or~~

~~(f) Investment management.~~

~~Members' terms shall be for 4 years. Any person appointed to fill a vacancy on the advisory committee may serve only for the remainder of the unexpired term. Any member is eligible for reappointment and shall serve until a successor qualifies. The advisory committee shall elect a chair and vice chair and shall also designate a secretary who need not be a member of the advisory committee. The secretary shall keep a record of the proceedings of the advisory committee and shall be the custodian of all printed materials filed with or by the advisory committee. Notwithstanding the existence of vacancies on the advisory committee, a majority of the members constitutes a quorum. The advisory committee shall not take official action in the absence of a quorum. Each member may name a designee to serve on the advisory committee on behalf of the member. However, any designee so named must meet the qualifications required of the selected member and be approved by the Treasurer. The advisory committee shall convene as needed.~~

~~(2)(3) Establish goals and objectives and Provide other data for the qualified public depository oversight board duties pursuant to s. 280.071 regarding:~~

~~(a) Establishing standards for qualified public depositories and custodians.~~

~~(b) Evaluating requests for exceptions to standards and alternative participation agreements.~~

~~(c) Reviewing and recommending action for qualified public depository or custodian violations as may be necessary to assist the advisory committee established under subsection (2) in developing standards for the program.~~

~~(3)(4) Review, implement, monitor, evaluate, and modify, as needed, all or any part of the standards, and policies, or recommendations of the qualified public depository oversight board recommended by an advisory committee.~~

~~(4)(5) Perform financial analysis of any qualified public depositories depository as needed.~~

~~(5)(6) Require such collateral, or increase the collateral-pledging level, of any qualified public depository as may be necessary to administer the provisions of this chapter and to protect the integrity of the public deposits program.~~

~~(7) Establish a minimum amount of required collateral as the Treasurer deems necessary to provide for the contingent liability pool.~~

~~(6)(8) Decline to accept, or reduce the reported value of, collateral as circumstances may require in order to ensure the pledging or depositing of sufficient marketable collateral and acceptable letters of credit to meet the purposes of this chapter.~~

~~(7)(9) Maintain perpetual inventory of pledged collateral and perform monthly market valuations and quality ratings.~~

~~(8)(10) Monitor and confirm, as often as deemed necessary by the Treasurer, the pledged collateral with held by third party custodians and letter of credit issuers.~~

~~(9)(11) Move Perfect interest in pledged collateral by having pledged securities moved into an account established in the Treasurer's name upon the occurrence of one or more triggering events. This action shall be taken at the discretion of the Treasurer.~~

~~(10) Issue notice to a qualified public depository that use of a custodian will be disallowed when the custodian has failed to follow collateral agreement terms.~~

~~(11)(12) Furnish written notice to custodians of collateral to hold interest and principal payments made on securities held as collateral and to deposit or transfer such payments pursuant to the Treasurer's instructions.~~

~~(12)(13) Release collateral held in the Treasurer's name, subject to sale and transfer of funds directly from the custodian to public depositors of a withdrawing depository.~~

~~(13) Demand payment under letters of credit for any of the triggering events listed in s. 280.041 and deposit the funds in:~~

~~(a) The Public Deposits Trust Fund for purposes of paying losses to public depositors.~~

(b) The Treasurer's Administrative and Investment Trust Fund for receiving payment of administrative penalties.

(c) The Treasury Cash Deposit Trust Fund for purposes of eligible collateral.

(14) Sell securities for the purpose of paying losses to public depositors not covered by deposit insurance.

(15) Transfer funds directly from the custodian to public depositors or the receiver in order to facilitate prompt payment of claims.

(16) Require the filing of the following reports which the Treasurer shall process as provided:

(a) Qualified public depository monthly reports and schedules. The Treasurer shall review the reports of each qualified public depository for material changes in capital accounts or changes in name, address, or type of institution; record the average daily balances of public deposits held; and monitor the collateral-pledging levels and required collateral.

(b) Quarterly regulatory reports from qualified public depositories. The Treasurer shall analyze qualified public depositories ranked in the lowest category based on established financial condition criteria.

(c) Qualified public depository annual reports and public depositor annual reports. The Treasurer shall compare public deposit information reported by qualified public depositories and public depositors. Such comparison shall be conducted for qualified public depositories which are ranked in the lowest category based on established financial condition criteria of record on September 30. Additional comparison processes may be performed as public deposits program resources permit.

(d) Any related documents, reports, records, or other information deemed necessary by the Treasurer in order to ascertain compliance with this chapter.

(17) Verify the reports of any qualified public depository relating to public deposits it holds when necessary to protect the integrity of the public deposits program.

(18) Confirm public deposits, to the extent possible under current law, when needed.

(19) Require at his or her discretion the filing of any information or forms required under this chapter to be by electronic data transmission. Such filings of information or forms shall have the same enforceability as a signed writing.

(20) Suspend or disqualify or disqualify after suspension any qualified public depository that has violated any of the provisions of this chapter or of rules adopted hereunder.

(a) Any qualified public depository that is suspended or disqualified pursuant to this subsection is subject to the provisions of s. 280.11(2) governing withdrawal from the public deposits program and return of pledged collateral. Any suspension shall not exceed a period of 6 months. Any qualified public depository which has been disqualified may not reapply for qualification until after the expiration of 1 year from the date of the final order of disqualification or the final disposition of any appeal taken therefrom.

(b) In lieu of suspension or disqualification, impose an administrative penalty upon the qualified public depository as provided in s. 280.054.

(c) If the Treasurer has reason to believe that any qualified public depository or any other financial institution holding public deposits is or has been violating any of the provisions of this chapter or of rules adopted hereunder, he or she may issue to the qualified public depository or other financial institution an order to cease and desist from the violation or to correct the condition giving rise to or resulting from the violation. If any qualified public depository or other financial institution violates a cease-and-desist or corrective order, the Treasurer may impose an administrative penalty upon the qualified public depository or other financial institution as provided in s. 280.054 or s. 280.055. In addition to the administrative penalty, the Treasurer may suspend or disqualify any qualified public depository for violation of any order issued pursuant to this paragraph.

Section 5. Subsections (2) and (3) of section 280.051, Florida Statutes, are amended to read:

280.051 Grounds for suspension or disqualification of a qualified public depository.—A qualified public depository may be suspended or disqualified or both if the Treasurer determines that the qualified public depository has:

(2) Submitted reports containing inaccurate or incomplete information regarding public deposits or ~~the securities pledged as collateral for such deposits, capital accounts, or the calculation of required collateral.~~

(3) Failed to maintain required pledge sufficient collateral to cover public deposits.

Section 6. Subsection (3) of section 280.054, Florida Statutes, is amended to read:

280.054 Administrative penalty in lieu of suspension or disqualification.—

(3) A qualified public depository ~~that violates s. 280.04(5) or a custodian that violates s. 280.04(6)~~ is subject to an administrative penalty in an amount not exceeding the greater of \$1,000 or 10 percent of the amount of withdrawal, not exceeding \$10,000, if the depository fails to provide required collateral using eligible collateral and prescribed collateral agreements or withdraws collateral without the Treasurer's approval.

Section 7. Paragraph (c) of subsection (1) of section 280.055, Florida Statutes, is amended to read:

280.055 Cease and desist order; corrective order; administrative penalty.—

(1) The Treasurer may issue a cease and desist order and a corrective order upon determining that:

(c) A qualified public depository pledges, deposits, or arranges for the issuance of unacceptable collateral;

Section 8. Section 280.07, Florida Statutes, is amended to read:

280.07 Mutual responsibility and contingent liability.—Any bank or savings association that is designated as a qualified public depository and that is not insolvent shall guarantee public depositors against loss caused by the default or insolvency of other qualified public depositories. Each qualified public depository shall execute a form prescribed by the Treasurer for such guarantee which shall be approved by the board of directors and shall become an official record of the institution.

Section 9. Section 280.071, Florida Statutes, is created to read:

280.071 Qualified Public Depository Oversight Board; purpose; identifying representative qualified public depositories; member selection; responsibilities.—A Qualified Public Depository Oversight Board is created comprised of six members and six alternate members who represent the interests of all qualified public depositories in safeguarding the integrity of the public deposits program and preventing the realization of loss assessments.

(1) On July 31 of each year and as vacancies occur, the Treasurer shall initiate the selection of oversight board representation in the following manner:

(a) Categorize eligible qualified public depositories into three groups according to average asset size. Eligible qualified public depositories must be in compliance with all requirements and shall not be suspended, disqualified, withdrawing, or under an alternative participation agreement in the public deposits program.

(b) Identify the two qualified public depositories in each of the three groups that have the greatest shares of contingent liability based on the average monthly balances of public deposits reported pursuant to s. 280.16.

(c) Send notification to the six qualified public depositories that have been identified.

(2) Each of the six representative qualified public depositories shall select a member and alternate member for the oversight board and give the Treasurer written information on the selections within 30 calendar days of the Treasurer's notice.

(3) If an identified qualified public depository declines to select a member, does not respond within 30 calendar days, or becomes ineligible, the Treasurer shall furnish notice to the Florida Bankers Association which

shall select a member and alternate member to represent that average asset category within 30 calendar days.

(4) Each member and alternate member selected must:

(a) Have resources available for review of qualified public depository issues.

(b) Possess knowledge, skill, and experience in one or more of the following areas:

1. Financial analysis;

2. Trend analysis;

3. Accounting;

4. Banking;

5. Risk management; or

6. Investment management.

(5) The oversight board members and alternate members shall be subject to the Treasurer's approval.

(6) The alternate member shall act on the member's behalf if the member is unable to perform oversight board functions and shall have the same rights, duties, and responsibilities as the member.

(7) Each member shall serve until a successor is selected.

(8) Expenses incurred by a member in carrying out duties of the oversight board shall be paid by his or her representative qualified public depository.

(9) The oversight board shall organize, communicate, and conduct meetings as follows:

(a) Elect a chair and vice chair.

(b) Designate a secretary who need not be a member of the oversight board. The secretary shall:

1. Keep a record of communications and meeting proceedings.

2. Act as custodian of all printed materials filed with or by the oversight board.

(c) Communicate through electronic means and express delivery services when possible.

(d) Meet upon call of the chair or any three members.

(e) Take no official action in the absence of a quorum.

1. A quorum shall consist of the majority of voting members of the oversight board.

2. Each member shall have one vote.

3. A member shall not vote on issues directly related to the qualified public depository he or she represents.

4. The Treasurer or his or her representative shall vote as a member of the oversight board in the absence of a quorum.

(10) The oversight board has the power and responsibility to safeguard the integrity of the public deposits program and prevent the realization of loss assessments by:

(a) Establishing standards in the following areas:

1. Financial institution entry requirements;

2. Qualified public depository reporting requirements;

3. Qualitative and quantitative financial condition requirements;

4. Custodian characteristic requirements and adherence to collateral agreement terms;

5. Collateral-pledging levels and adequacy of required collateral;

6. Collateral eligibility and restrictions;

7. Operating subsidiary and agent requirements;

8. Merger, acquisition, and name change requirements;

9. Participation restrictions;

10. Participation status and conditions for suspension, disqualification, and mandatory withdrawal;

11. Penalties and fines; and

12. Corrective actions and administrative orders.

(b) Recommending approval or rejection to the Treasurer for exceptions that do not meet established standards. These requests for exceptions may be:

1. Referred by the Treasurer; or

2. Submitted directly by the qualified public depository seeking exception.

(c) Issuing approvals or rejections for alternative participation agreements referred by the Treasurer.

(d) Reviewing program violations and recommending that the Treasurer impose penalties and fines or issue corrective actions and administrative orders.

(e) Studying public deposit program areas referred by the Treasurer.

(f) Assessing qualified public depositories, as provided in s. 280.08, to pay for the implementation of standards established by the oversight board which exceed the resources of the public deposits program.

(11) Official actions of the oversight board regarding the establishment of standards, exception and alternate participation agreement decisions, and recommendations concerning violations shall be:

(a) Communicated to the Treasurer in writing.

(b) Subject to approval of the Treasurer.

(c) Implemented as public deposits program resources or payment described in subsection (10) above permit.

(12) The Treasurer may adopt rules to establish procedures and forms for oversight board member and alternate member selection and oversight board functions.

Section 10. Paragraph (a) of subsection (3) and subsections (4) and (7) of section 280.08, Florida Statutes, are amended to read:

280.08 Procedure for payment of losses.—When the Treasurer determines that a default or insolvency has occurred, he or she shall provide notice as required in s. 280.085(4) and implement the following procedures:

(3)(a) The loss to public depositors shall be satisfied, insofar as possible, first through any applicable deposit insurance and then through demanding payment under letters of credit or the sale of collateral securities pledged or deposited by the defaulting depository. The Treasurer may assess qualified public depositories as provided in paragraph (b) for the total loss if the demand for payment or sale of collateral securities cannot be accomplished within 7 business days.

(4) Each qualified public depository shall pay its assessment to the Treasurer within 7 business days after it receives notice of the assessment. If a depository fails to pay its assessment when due, the Treasurer shall satisfy the assessment by demanding payment under letters of credit or selling collateral securities pledged or deposited by that depository.

(7) Expenses incurred by the Treasurer in connection with a default or insolvency which are not normally incurred by the Treasurer in the administration of this act must be paid out of the amount paid under letters of credit or proceeds from the sale of pledged collateral.

Section 11. Section 280.09, Florida Statutes, is amended to read:

280.09 Public Deposits Trust Fund.—

(1) In order to facilitate the administration of this chapter, there is created the Public Deposits Trust Fund, hereafter in this section designated "the fund." The proceeds from the sale of securities or draw on letters of credit held pledged as collateral or from any assessment pursuant to s. 280.08 shall be deposited into the fund. Any administrative penalty collected pursuant to this chapter shall be deposited into the Treasurer's Administrative and Investment Trust Fund.

(2) The Treasurer is authorized to pay any losses to public depositors from the fund, and there are hereby appropriated from the fund such sums as may be necessary from time to time to pay the losses. The term "losses," for purposes of this chapter, shall also include losses of interest or other accumulations to the public depositor as a result of penalties for early withdrawal required by Depository Institution Deregulatory Commission Regulations or applicable successor federal laws or regulations because of suspension or disqualification of a qualified public depository by the Treasurer pursuant to s. 280.05(20) or because of withdrawal from the public deposits program pursuant to s. 280.11. In that event, the Treasurer is authorized to assess against the suspended, disqualified, or withdrawing public depository, in addition to any amount authorized by any other provision of this chapter, an administrative penalty equal to the amount of the early withdrawal penalty and to pay that amount over to the public depositor as reimbursement for such loss. Any money in the fund estimated not to be needed for immediate cash requirements shall be invested pursuant to s. 18.125.

Section 12. Section 280.10, Florida Statutes, is amended to read:

280.10 Effect of merger, or acquisition, or consolidation; change of name or address.—

(1) ~~When In the event~~ a qualified public depository is merged into, acquired by, or consolidated with a bank, savings bank, or savings association that is not a qualified public depository;

(a) The resulting institution shall automatically become a qualified public depository subject to the requirements of the public deposits program, and

(b) The contingent liability of the former institution shall be a liability of the resulting institution.

(c) The public deposits and associated collateral of the former institution shall be public deposits and collateral of the resulting institution.

(d) The resulting institution shall, within 90 calendar 30 days after the effective date of the merger, acquisition, or consolidation, deliver to the Treasurer: the resulting institution shall

1. Documentation execute in its own name and deliver to the Treasurer the contingent liability agreement required by s. 280.07, and all information and documentation as may be required for participation in the public deposits program; or,

~~2. Written notice of intent to withdraw If the resulting institution chooses not to remain a qualified public depository, or does not meet the requirements to become a qualified public depository, such institution shall comply with the procedures for withdrawal from the program as provided in s. 280.11 and a proposed effective date of withdrawal which shall be within 180 days after the effective date of the acquisition, merger, or consolidation of the former institution.~~

(e) If the resulting institution does not meet qualifications to become a qualified public depository or does not submit required documentation within 90 calendar days after the effective date of the merger, acquisition, or consolidation, the Treasurer shall initiate mandatory withdrawal actions as provided in s. 280.11 and shall set an effective date of withdrawal that is within 180 days after the effective date of the acquisition, merger, or consolidation of the former institution.

(2) When a qualified public depository which sells or disposes of any of its Florida public deposits or collateral securing such deposits in a manner not covered by subsection (1), the qualified public depository originally holding the public deposits branches to an institution that is not a qualified public depository, and such branches continue to hold public deposits, shall be responsible for:

(a) Ensuring the institution receiving such public deposits becomes a qualified public depository and meets collateral requirements with the Treasurer as part of the transaction.

(b) Notifying the Treasurer within 30 calendar days after the final approval by the appropriate regulator.

A qualified public depository that fails to meet such responsibilities shall and continue to collateralize and report such public deposits until the receiving purchasing institution becomes a qualified public depository and collateralizes the deposits or the deposits are returned to the governmental public unit. The qualified public depository shall notify the Treasurer of any acquisition of its branches on its next monthly report after the final approval by the appropriate regulator if the acquisition includes public deposits.

(3) The qualified public depository shall notify the Treasurer of any acquisition or merger within 30 calendar days on its next monthly report after the final approval of the acquisition or merger by its appropriate regulator.

(4) Collateral subject to a collateral depository pledge agreement may not be released by the Treasurer or the custodian until the assumed liability is evidenced by the deposit of collateral pursuant to the collateral depository pledge agreement of the successor entity. The reporting requirement and pledge of collateral will remain in force until the Treasurer determines that the liability no longer exists. The surviving or new qualified public depository shall be responsible and liable for all of the liabilities and obligations of each qualified public depository merged with or acquired by it.

(5) Each qualified public depository shall report any change of name and address to the Treasurer on a form provided by the Treasurer regardless of

whether the name change is a result of an acquisition, ~~or merger, or consolidation~~. Notification of such change must be made within 30 calendar days after the effective date of the change on its next monthly report.

(6) The Treasurer shall adopt rules establishing procedures for mergers, acquisitions, consolidations, and changes in name and address, providing forms, and clarifying terms.

Section 13. Subsection (1) of section 280.11, Florida Statutes, is amended to read:

280.11 Withdrawal from public deposits program; return of pledged collateral.—

(1) A qualified public depository may withdraw from the public deposits program by giving written notice to the Treasurer. The contingent liability, required collateral, and reporting requirements of the depository withdrawing from the program shall continue for a period of 12 months after the effective date of the withdrawal, except that the filing of reports may no longer be required when the average monthly balance of public deposits is equal to zero. Notice of withdrawal shall be mailed or delivered in sufficient time to be received by the Treasurer at least 30 days before the effective date of withdrawal. The Treasurer shall timely publish the withdrawal notice in the Florida Administrative Weekly which shall constitute notice to all depositors. The withdrawing depository shall not receive or retain public deposits after the effective date of the withdrawal until such time as it again becomes a qualified public depository. The Treasurer shall, upon request, return to the depository that portion of the collateral pledged that is in excess of the required collateral as reported on the current public depository monthly report. Losses of interest or other accumulations, if any, because of withdrawal under this section shall be assessed and paid as provided in s. 280.09(2).

Section 14. Section 280.13, Florida Statutes, is amended to read:

280.13 Eligible 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:

- (a) Direct obligations of the United States Government.
- (b) Obligations of any federal agency that are fully guaranteed as to payment of principal and interest by the United States Government.
- (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.

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.

(d) General obligations of a state of the United States, or of Puerto Rico, or of a political subdivision or municipality thereof.

(e) Obligations issued by the Florida State Board of Education under authority of the State Constitution or applicable statutes.

(f) Tax anticipation certificates or warrants of counties or municipalities having maturities not exceeding 1 year.

(g) Public housing authority obligations.

(h) Revenue bonds or certificates of a state of the United States or of a political subdivision or municipality thereof.

(i) Corporate bonds of any corporation that is not an affiliate or subsidiary of the qualified public depository.

(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.

(3) Except as to obligations issued by or with respect to which payment of interest and principal is guaranteed by the United States Government or obligations of federal agencies listed in subsection (1), the debt obligations mentioned in this section shall be rated in one of the four highest classifications by an established, nationally recognized investment rating service.

(4) To be eligible as collateral under this section, all debt obligations shall be interest bearing or accruing.

(5) Letters of credit issued by a Federal Home Loan Bank are eligible as collateral under this section provided that:

(a) The letter of credit has been delivered to the Treasurer in the standard format approved by the Treasurer.

(b) The letter of credit meets required conditions of:

1. Being irrevocable.

2. Being clean and unconditional and containing a statement that it is not subject to any agreement, condition, or qualification outside of the letter of credit and providing that a beneficiary need only present the original letter of credit with any amendments and the demand form to promptly obtain funds, and that no other document need be presented.

3. Being issued, presentable, and payable at a Federal Home Loan Bank in U.S. dollars. Presentation may be made by the beneficiary submitting the original letter of credit, including any amendments, and the demand in writing, by overnight delivery.

4. Containing a statement that identifies and defines the Treasurer as beneficiary.

5. Containing an issue date and a date of expiration.

6. Containing a term of at least 1 year and an evergreen clause that provides at least 60 days written notice to the beneficiary prior to expiration date for nonrenewal.

7. Containing a statement that it is subject to and governed by the laws of the State of Florida and that, in the event of any conflict with other laws, the laws of the State of Florida will control.

8. Containing a statement that the letter of credit is an obligation of the Federal Home Loan Bank and is in no way contingent upon reimbursement.

9. Any other provision found necessary under the Uniform Commercial Code—Letters of Credit.

(c) Obligations issued by the Federal Home Loan Bank remain triple A rated by a nationally recognized source.

(d) The Federal Home Loan Bank issuing the letter of credit agrees to provide confirmation upon request from the Treasurer. Such 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 qualified public depository's name and location.

(e) The qualified public depository completes an agreement covering the use of the letters of credit as eligible collateral, as described in s. 280.041(5).

(f) The qualified public depository, if notified by the Treasurer, shall not be allowed to use letters of credit if the Federal Home Loan Bank fails to pay a draw request as provided for in the letters of credit or fails to properly complete a confirmation of such letters of credit.

(6) Cash held by the Treasurer in the Treasury Cash Deposit Trust Fund or by a custodian is eligible as collateral under this section. Interest earned on cash deposits that is in excess of required collateral shall be paid to the qualified public depository upon request.

~~(7)~~(5) The Treasurer may disapprove any security or letter of credit that does not meet the requirements of this section or any rule adopted pursuant to this section or any security for which no current market price can be obtained from a nationally recognized source deemed acceptable to the Treasurer or cannot be converted to cash.

(8) The Treasurer shall adopt rules defining restrictions and special requirements for eligible collateral and clarifying terms.

Section 15. Paragraph (a) of subsection (1), paragraph (b) of subsection (2), and subsection (3) of section 280.16, Florida Statutes, are amended to read:

280.16 Requirements of qualified public depositories; confidentiality.—

(1) In addition to any other requirements specified in this chapter, qualified public depositories shall:

(a) ~~Beginning July 1, 1998,~~ Take the following actions for each public deposit account:

1. Identify the account as a “Florida public deposit” on the deposit account record with the name of the public depositor or provide a unique code for the account for such designation.

2. When the form prescribed by the Treasurer for acknowledgment of receipt of each public deposit account is presented to the qualified public depository by the public depositor opening an account, the qualified public depository shall execute and return the completed form to the public depositor.

3. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor due to a change of account name, account number, or qualified public depository name on an existing public deposit account, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.

4. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor on an account existing before July 1, 1998, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.

(2) The following forms must be made under oath:

(b) Collateral control agreements and letter of credit agreements ~~The public depository pledge agreement.~~

(3) Any information contained in a report of a qualified public depository required under this chapter or any rule adopted under this chapter, together with any information required of a financial institution that is not a qualified public depository, shall, if made confidential by any law of the United States or of this state, be considered confidential and exempt from the provisions of s. 119.07(1) and not subject to dissemination to anyone other than the Treasurer under the provisions of this chapter; however, it is the responsibility of each qualified public depository and each financial institution from which information is required to inform the Treasurer of information that is confidential and the law providing for the confidentiality of that information, and the Treasurer does not have a duty to inquire into whether information is confidential.

Section 16. Except as otherwise provided herein, this act shall take effect October 1, 2001.

Approved by the Governor June 13, 2001.

Filed in Office Secretary of State June 13, 2001.