

By Senator Williams

4-992A-98

See HB

1 A bill to be entitled

2 An act relating to public depositories;

3 amending ss. 125.31, 136.01, 159.09, 166.261,

4 218.345, 236.24, 255.502, and 331.309, F.S.;

5 providing for deposit of certain public funds

6 in qualified public depositories or certain

7 chartered depositories; amending s. 280.02,

8 F.S.; defining governmental unit; revising the

9 definition of qualified public depository;

10 amending s. 280.03, F.S.; requiring deposit of

11 public deposits into qualified public

12 depositories; providing exemptions; amending s.

13 280.04, F.S.; clarifying certain collateral

14 requirements; amending s. 280.05, F.S.;

15 revising provisions providing powers and duties

16 of the Treasurer; amending s. 280.07, F.S.;

17 requiring qualified public depositories to

18 execute a form for certain purposes; amending

19 s. 280.08, F.S.; revising procedures for

20 payment of losses; amending s. 280.16, F.S.;

21 providing requirements for qualified public

22 depositories; amending s. 280.17, F.S.;

23 revising requirements for public depositors;

24 amending s. 280.18, F.S.; providing for

25 protection from loss to public depositors;

26 limiting liability of the state and the

27 Treasurer; providing an effective date.

28

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

30

31

1 Section 1. Subsections (1) and (2) of section 125.31,
2 Florida Statutes, are amended to read:

3 125.31 Investment of surplus public funds;
4 regulations.--

5 (1) Unless otherwise authorized by law or by
6 ordinance, the board of county commissioners shall, by
7 resolution to be adopted from time to time, invest and
8 reinvest any surplus public funds in its control or possession
9 in:

10 (a) The Local Government Surplus Funds Trust Fund;

11 (b) Negotiable direct obligations of, or obligations
12 the principal and interest of which are unconditionally
13 guaranteed by, the United States Government at the then
14 prevailing market price for such securities;

15 (c) Interest-bearing time deposits or savings accounts
16 in qualified public depositories as defined in s. 280.02 ~~banks~~
17 ~~organized under the laws of this state, in national banks~~
18 ~~organized under the laws of the United States and doing~~
19 ~~business and situated in this state, in savings and loan~~
20 ~~associations which are under state supervision, or in federal~~
21 ~~savings and loan associations located in this state and~~
22 ~~organized under federal law and federal supervision, provided~~
23 ~~that any such deposits are secured by collateral as may be~~
24 ~~prescribed by law;~~

25 (d) Obligations of the federal farm credit banks; the
26 Federal Home Loan Mortgage Corporation, including Federal Home
27 Loan Mortgage Corporation participation certificates; or the
28 Federal Home Loan Bank or its district banks or obligations
29 guaranteed by the Government National Mortgage Association;

30 (e) Obligations of the Federal National Mortgage
31 Association, including Federal National Mortgage Association

1 participation certificates and mortgage pass-through
2 certificates guaranteed by the Federal National Mortgage
3 Association; or

4 (f) Securities of, or other interests in, any open-end
5 or closed-end management type investment company or investment
6 trust registered under the Investment Company Act of 1940, 15
7 U.S.C. ss. 80a-1 et seq., as amended from time to time,
8 provided the portfolio of such investment company or
9 investment trust is limited to obligations of the United
10 States Government or any agency or instrumentality thereof and
11 to repurchase agreements fully collateralized by such United
12 States Government obligations and provided such investment
13 company or investment trust takes delivery of such collateral
14 either directly or through an authorized custodian.

15 (2)(a) Every security purchased under this section on
16 behalf of the governing body of a county shall be properly
17 earmarked and:

18 1. If registered with the issuer or its agents, shall
19 be immediately placed for safekeeping in a location which
20 protects the governing body's interest in the security;

21 2. If in book entry form, shall be held for the credit
22 of the governing body of the county by a depository chartered
23 by ~~either~~ the Federal Government, or the state, or any other
24 state or territory of the United States, that has a branch or
25 principal place of business in this state, and shall be kept
26 by the depository in an account separate and apart from the
27 assets of the financial institution; or

28 3. If physically issued to the holder but not
29 registered with the issuer or its agents, shall be immediately
30 placed for safekeeping in a safe-deposit box in a financial
31

1 institution in this state that maintains adequate safe-deposit
2 box insurance.

3 (b) The board of county commissioners may also receive
4 bank trust receipts in return for investment of surplus funds
5 in securities. Any trust receipts received must enumerate the
6 various securities held together with the specific number of
7 each security held. The actual securities on which the trust
8 receipts are issued may be held by any bank depository
9 chartered by the United States Government, or the State of
10 Florida, or any other state or territory of the United States,
11 that has a branch or principal place of business in this state
12 ~~their designated agents.~~

13 Section 2. Section 136.01, Florida Statutes, is
14 amended to read:

15 136.01 County depositories.--Each county depository
16 shall be a qualified public depository as defined in s. 280.02
17 ~~Any bank or savings association organized under the laws of~~
18 ~~this state or of the United States and authorized to do~~
19 ~~business in this state which, as to the various funds herein~~
20 ~~referred to, conforms to the requirements of chapter 280 is~~
21 ~~authorized to accept county deposits.~~ These funds include:
22 county funds; funds of all county officers, including
23 constitutional officers; funds of the school board; and funds
24 of the community college district board of trustees. This
25 enumeration of funds is made not by way of limitation, but of
26 illustration; and it is the intent hereof that all funds of
27 the county, the board of county commissioners or the several
28 county officers, the school board, or the community college
29 district board of trustees be included.

30 Section 3. Section 159.09, Florida Statutes, is
31 amended to read:

1 159.09 Trust agreement.--In the discretion of the
2 governing body, each or any issue of such bonds may be secured
3 by a trust agreement by and between the unit and a corporate
4 trustee, which may be any trust company or bank having the
5 powers of a trust company within or outside the state. Such
6 trust agreement may pledge or assign the revenues to be
7 received, but shall not convey or mortgage any project or any
8 part thereof. Either the ordinance or resolution providing for
9 the issuance of revenue bonds or such trust agreement may
10 contain such provisions for protecting and enforcing the
11 rights and remedies of the bondholders as may be reasonable
12 and proper and not in violation of law, including covenants
13 setting forth the duties of the unit and the governing body
14 thereof in relation to the acquisition, construction,
15 improvement, maintenance, operation, repair, and insurance of
16 the project, and the custody, safeguarding, and application of
17 all moneys. It shall be lawful for any bank or trust company
18 incorporated under the laws of this state, or any other state
19 or territory of the United States, that has a branch or
20 principal place of business in this state,to act as such
21 depository and to furnish such indemnifying bonds or to pledge
22 such securities as may be required by the governing body. Such
23 ordinance or resolution or such trust agreement may set forth
24 the rights and remedies of the bondholders and of the trustee,
25 if any, and may restrict the individual right of action by
26 bondholders as is customary in trust agreements or trust
27 indentures securing bonds or debentures of corporations. In
28 addition to the foregoing, such ordinance or resolution or
29 such trust agreement may contain such other provisions as the
30 governing body may deem reasonable and proper for the security
31 of bondholders. Except as in this part otherwise provided,

1 the governing body may provide, by ordinance or resolution or
2 by such trust agreement, for the payment of the proceeds of
3 the sale of the bonds and the revenues of the project to such
4 officer, board or depository as it may determine for the
5 custody thereof, and for the method of disbursement thereof,
6 with such safeguards and restrictions as it may determine.
7 All expenses incurred in carrying out such trust agreement may
8 be treated as a part of the cost of operation of the project
9 affected by such trust agreement.

10 Section 4. Subsections (1) and (2) of section 166.261,
11 Florida Statutes, are amended to read:

12 166.261 Municipalities; investments.--

13 (1) Unless otherwise authorized by law or by
14 ordinance, the governing body of each municipality shall, by
15 resolution to be adopted from time to time, invest and
16 reinvest any surplus public funds in its control or possession
17 in:

18 (a) The Local Government Surplus Funds Trust Fund;

19 (b) Negotiable direct obligations of, or obligations
20 the principal and interest of which are unconditionally
21 guaranteed by, the United States Government at the then
22 prevailing market price for such securities;

23 (c) Interest-bearing time deposits or savings accounts
24 in qualified public depositories as defined in s. 280.02 ~~banks~~
25 ~~organized under the laws of this state, in national banks~~
26 ~~organized under the laws of the United States and doing~~
27 ~~business and situated in this state, in savings and loan~~
28 ~~associations which are under state supervision, or in federal~~
29 ~~savings and loan associations located in this state and~~
30 ~~organized under federal law and federal supervision, provided~~

31

1 ~~that any such deposits are secured by collateral as may be~~
2 ~~prescribed by law;~~
3 ~~(c) Interest-bearing time deposits or savings accounts~~
4 ~~in banks organized under the laws of this state, in national~~
5 ~~banks organized under the laws of the United States and doing~~
6 ~~business and situated in this state, in savings and loan~~
7 ~~associations which are under state supervision, or in federal~~
8 ~~savings and loan associations located in this state and~~
9 ~~organized under federal law and federal supervision, provided~~
10 ~~that any such deposits are secured by collateral as may be~~
11 ~~prescribed by law;~~
12 (d) Obligations of the federal farm credit banks; the
13 Federal Home Loan Mortgage Corporation, including Federal Home
14 Loan Mortgage Corporation participation certificates; or the
15 Federal Home Loan Bank or its district banks or obligations
16 guaranteed by the Government National Mortgage Association;
17 (e) Obligations of the Federal National Mortgage
18 Association, including Federal National Mortgage Association
19 participation certificates and mortgage pass-through
20 certificates guaranteed by the Federal National Mortgage
21 Association; or
22 (f) Securities of, or other interests in, any open-end
23 or closed-end management type investment company or investment
24 trust registered under the Investment Company Act of 1940, 15
25 U.S.C. ss. 80a-1 et seq., as amended from time to time,
26 provided the portfolio of such investment company or
27 investment trust is limited to obligations of the United
28 States Government or any agency or instrumentality thereof and
29 to repurchase agreements fully collateralized by such United
30 States Government obligations and provided such investment
31

1 company or investment trust takes delivery of such collateral
2 either directly or through an authorized custodian.

3 (2)(a) Every security purchased under this section on
4 behalf of the governing body of a municipality shall be
5 properly earmarked and:

6 1. If registered with the issuer or its agents, shall
7 be immediately placed for safekeeping in a location which
8 protects the interest of the governing body in the security;

9 2. If in book entry form, shall be held for the credit
10 of the governing body of the municipality by a depository
11 chartered by ~~either~~ the Federal Government, ~~or~~ the state, ~~or~~
12 any other state or territory of the United States, that has a
13 branch or principal place of business in this state, and shall
14 be kept by the depository in an account separate and apart
15 from the assets of the financial institution; or

16 3. If physically issued to the holder, but not
17 registered with the issuer or its agents, shall be immediately
18 placed for safekeeping in a safe-deposit box in a financial
19 institution in this state that maintains adequate safe-deposit
20 box insurance.

21 (b) The governing body may also receive bank trust
22 receipts in return for investment of surplus funds in
23 securities. Any trust receipts received must enumerate the
24 various securities held, together with the specific number of
25 each security held. The actual securities on which the trust
26 receipts are issued may be held by any bank depository
27 chartered by the United States Government, ~~or~~ the State of
28 Florida, ~~or~~ any other state or territory of the United States,
29 that has a branch or principal place of business in this
30 state, or their designated agents.

31

1 Section 5. Subsection (1) and paragraph (b) of
2 subsection (2) of section 218.345, Florida Statutes, are
3 amended to read:

4 218.345 Special districts; investments.--

5 (1) The governing body of each special district shall,
6 by resolution to be adopted from time to time, invest and
7 reinvest any surplus public funds in its control or possession
8 in:

9 (a) The Local Government Surplus Funds Trust Fund, as
10 created by s. 218.405;

11 (b) Negotiable direct obligations of, or obligations
12 the principal and interest of which are unconditionally
13 guaranteed by, the United States Government at the then
14 prevailing market price for such securities;

15 (c) Interest-bearing time deposits or savings accounts
16 in qualified public depositories as defined in s. 280.02 ~~banks~~
17 ~~organized under the laws of this state, in national banks~~
18 ~~organized under the laws of the United States and doing~~
19 ~~business and situated in this state, in savings and loan~~
20 ~~associations which are under state supervision, or in federal~~
21 ~~savings and loan associations located in this state and~~
22 ~~organized under federal law and federal supervision, provided~~
23 ~~that any such deposits are secured by collateral as may be~~
24 ~~prescribed by law;~~

25 ~~(c) Interest-bearing time deposits or savings accounts~~
26 ~~in banks organized under the laws of this state, in national~~
27 ~~banks organized under the laws of the United States and doing~~
28 ~~business and situated in this state, in savings and loan~~
29 ~~associations which are under state supervision, or in federal~~
30 ~~savings and loan associations located in this state and~~
31 ~~organized under federal law and federal supervision, provided~~

1 ~~that any such deposits are secured by collateral as may be~~
2 ~~prescribed by law.~~

3 (d) Obligations of the Federal Farm Credit Banks,
4 Federal Home Loan Mortgage Corporation, or Federal Home Loan
5 Bank or its district banks, including Federal Home Loan
6 Mortgage Corporation participation certificates, or
7 obligations guaranteed by the Government National Mortgage
8 Association; or

9 (e) Securities of, or other interests in, any open-end
10 or closed-end management type investment company or investment
11 trust registered under the Investment Company Act of 1940, 15
12 U.S.C. ss. 80a-1 et seq., as amended from time to time,
13 provided the portfolio of such investment company or
14 investment trust is limited to obligations of the United
15 States Government or any agency or instrumentality thereof and
16 to repurchase agreements fully collateralized by such United
17 States Government obligations, and provided such investment
18 company or investment trust takes delivery of such collateral
19 either directly or through an authorized custodian.

20 (2)

21 (b) The governing body may also receive bank trust
22 receipts in return for investment of surplus funds in
23 securities. Any trust receipts received must enumerate the
24 various securities held, together with the specific number of
25 each security held. The actual securities on which the trust
26 receipts are issued may be held by any bank depository
27 chartered by the United States Government, or the State of
28 Florida, or any other state or territory of the United States,
29 that has a branch or principal place of business in this
30 state, or their designated agents.

31

1 Section 6. Paragraphs (a) and (b) of subsection (2) of
2 section 236.24, Florida Statutes, are amended to read:

3 236.24 Sources of district school fund.--

4 (2)(a) Unless otherwise authorized by law or by
5 ordinance, each school board shall, by resolution to be
6 adopted from time to time, invest and reinvest any surplus
7 public funds in its control or possession in:

8 1. The Local Government Surplus Funds Trust Fund;

9 2. Negotiable direct obligations of, or obligations
10 the principal and interest of which are unconditionally
11 guaranteed by, the United States Government at the then
12 prevailing market price for such securities;

13 3. Interest-bearing time deposits or savings accounts
14 in qualified public depositories as defined in s. 280.02 ~~banks~~
15 ~~organized under the laws of this state, in national banks~~
16 ~~organized under the laws of the United States and doing~~
17 ~~business and situated in this state, in savings and loan~~
18 ~~associations which are under state supervision, or in federal~~
19 ~~savings and loan associations located in this state and~~
20 ~~organized under federal law and federal supervision, provided~~
21 ~~that any such deposits are secured by collateral as may be~~
22 ~~prescribed by law;~~

23 4. Obligations of the federal farm credit banks; the
24 Federal Home Loan Mortgage Corporation, including Federal Home
25 Loan Mortgage Corporation participation certificates; or the
26 Federal Home Loan Bank or its district banks or obligations
27 guaranteed by the Government National Mortgage Association;

28 5. Obligations of the Federal National Mortgage
29 Association, including Federal National Mortgage Association
30 participation certificates and mortgage pass-through
31

1 certificates guaranteed by the Federal National Mortgage
2 Association; or

3 6. Securities of, or other interests in, any open-end
4 or closed-end management type investment company or investment
5 trust registered under the Investment Company Act of 1940, 15
6 U.S.C. ss. 80a-1 et seq., as amended from time to time,
7 provided the portfolio of such investment company or
8 investment trust is limited to obligations of the United
9 States Government or any agency or instrumentality thereof and
10 to repurchase agreements fully collateralized by such United
11 States Government obligations, and provided such investment
12 company or investment trust takes delivery of such collateral
13 either directly or through an authorized custodian.

14 (b)1. Securities purchased by any such school board
15 under the authority of this law shall be delivered by the
16 seller to the school board or its appointed safekeeper. The
17 safekeeper shall be a qualified bank or trust company
18 chartered to operate as such by the State of Florida, any
19 other state or territory of the United States, or the United
20 States Government, that has a branch or principal place of
21 business in this state. The safekeeper shall issue
22 documentation for each transaction, and a monthly statement
23 detailing all transactions for the period.

24 2. Securities physically delivered to the school board
25 shall be placed in a safe-deposit box in a bank or other
26 institution located within the county and duly licensed and
27 insured. Withdrawals from such safe-deposit box shall be only
28 by persons duly authorized by resolution of the school board.

29 3. The school board may also receive bank trust
30 receipts in return for investment of surplus funds in
31 securities. Any trust receipts received must enumerate the

1 various securities held together with the specific number of
2 each security held. The actual securities on which the trust
3 receipts are issued may be held by any bank depository
4 chartered by the United States Government, or the State of
5 Florida, or any other state or territory of the United States,
6 that has a branch or principal place of business in this
7 state, or their designated agents.

8 Section 7. Paragraph (h) of subsection (4) of section
9 255.502, Florida Statutes, is amended to read:

10 255.502 Definitions; ss. 255.501-255.525.--As used in
11 this act, the following words and terms shall have the
12 following meanings unless the context otherwise requires:

13 (4) "Authorized investments" means and includes
14 without limitation any investment in:

15 (h) Savings accounts in, or certificates of deposit
16 of, qualified public depositories as defined in s. 280.02 ~~any~~
17 ~~bank, savings bank, or savings and loan association which is~~
18 ~~incorporated under the laws of this state or organized under~~
19 ~~the laws of the United States and is doing business and~~
20 ~~situated in this state, the accounts of which are insured by~~
21 ~~the Federal Government or an agency thereof, in an amount that~~
22 does not exceed 15 percent of the net worth of the
23 institution, or a lesser amount as determined by rule by the
24 State Board of Administration, provided such savings accounts
25 and certificates of deposit are secured in the manner
26 prescribed in chapter 280.

27
28 Investments in any security authorized in this subsection may
29 be under repurchase agreements or reverse repurchase
30 agreements.

31

1 Section 8. Subsections (11) through (19) of section
2 280.02, Florida Statutes, are renumbered as subsections (12)
3 through (20), respectively, a new subsection (11) is added to
4 said section, and present subsection (16) is renumbered and
5 amended, to read:

6 280.02 Definitions.--As used in this chapter, the
7 term:

8 (11) "Governmental unit" means the state or any
9 county, school district, community college district, special
10 district, metropolitan government, or municipality, including
11 any agency, board, bureau, commission, and institution of any
12 of such entities, or any court.

13 ~~(17)~~~~(16)~~ "Qualified public depository" means any bank,
14 savings bank, or savings association that:

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

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

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

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

28 ~~(e)~~~~(d)~~ Meets all the requirements of this chapter.

29 ~~(f)~~~~(e)~~ Has been designated by the Treasurer as a
30 qualified public depository.

31

1 Section 9. Section 280.03, Florida Statutes, is
2 amended to read:

3 280.03 Public deposits to be secured; prohibitions;
4 exemptions ~~exceptions~~.--

5 (1)(a) All public deposits shall be secured as
6 provided in this chapter when public depositors comply with
7 the requirements of this chapter.

8 (b) Public deposits shall be made in a qualified
9 public depository unless exempted by law.~~Notwithstanding the~~
10 ~~provisions of any other law, a public deposit as defined in s.~~
11 ~~280.02(13) may be deposited in a qualified public depository~~
12 ~~as defined in s. 280.02(16).~~

13 ~~(2)(b)~~ Public funds shall not be deposited directly or
14 indirectly in negotiable certificates of deposit. ~~Except as~~
15 ~~otherwise provided by law, no public deposit may be made~~
16 ~~except in a qualified public depository.~~

17 ~~(3)(2)~~ The following are exempt from the requirements
18 of, and protection under, this chapter:

19 (a) Public deposits deposited in a bank or savings
20 association by a trust department or trust company which are
21 fully secured under trust business laws.~~Every public deposit~~
22 ~~held by a trust company, which trust company has legal title~~
23 ~~thereto and is subject to the applicable provisions of~~
24 ~~chapters 658 and 660 or such federal laws that are applicable~~
25 ~~to trusts and trust companies, in trust or in escrow pursuant~~
26 ~~to the provisions of any written trust indenture or escrow~~
27 ~~agreement authorized by law, unless provided otherwise in the~~
28 ~~documents or proceedings authorizing the terms of and the~~
29 ~~execution of the trust indenture or escrow agreement, and~~

30 (b) Moneys of the System Trust Fund, as defined in s.
31 121.021(36), ~~are exempt from the requirements of this chapter.~~

1 ~~(c)(3)~~ Public deposits held outside the country ~~are~~
2 ~~exempt from the requirements and protection of this chapter.~~

3 ~~(d)(4)~~ Wire transfers and transfers of funds ~~for a~~
4 ~~period not exceeding 7 days~~ solely for the purpose of paying
5 registrars and paying agents ~~are exempt from the requirements~~
6 ~~of this chapter.~~

7 (e) Public deposits which are fully secured under
8 federal regulations.

9 Section 10. Paragraph (d) of subsection (1) of section
10 280.04, Florida Statutes, is amended to read:

11 280.04 Collateral for public deposits; general
12 provisions.--

13 (1) Every qualified public depository shall deposit
14 with the Treasurer eligible collateral equal to or in excess
15 of the required collateral of the depository to be held
16 subject to his or her order. The Treasurer, by rule, shall
17 establish minimum required collateral pledging levels and
18 shall notify each qualified public depository of its required
19 pledging level. Each qualified public depository shall
20 calculate the amount of its required collateral based upon any
21 one or any combination of the following formulas:

22 (d) One hundred twenty-five percent of the average
23 daily balance of public deposits in excess of 20 percent of
24 the total average monthly balances of public deposits held by
25 all qualified public depositories ~~of the same type, i.e.,~~
26 ~~banks or savings associations.~~ The Treasurer shall determine
27 the total average monthly balances of public deposits held
28 during ~~based on~~ the immediately preceding 12-month period
29 ~~average.~~ That 12-month average amount must be disseminated to
30 the qualified public depositories at such time and in such
31 manner as the Treasurer determines appropriate.

1 Section 11. Section 280.05, Florida Statutes, is
2 amended to read:

3 280.05 Powers and duties of the Treasurer.--In
4 fulfilling the requirements of this act, the Treasurer has the
5 power to:

6 (1)~~(6)~~ Establish criteria, based on the overall
7 financial condition of the participant and applicants, as may
8 be necessary, to protect the integrity of the public deposits
9 program, to:

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

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

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

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

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

19 (2)~~(9)~~ Appoint a six-member ~~two separate three-member~~
20 advisory committee ~~committees, one for banks and one for~~
21 ~~savings associations~~, to review and recommend criteria to be
22 used by the Treasurer for purposes stated in subsection (1)
23 ~~(6)~~ in order to protect public deposits and the depositories
24 in the program. Each member selected to serve on the ~~an~~
25 advisory committee must be a representative of his or her
26 ~~respective~~ industry. Advisory committee members must
27 represent active qualified public depositories, not in the
28 process of withdrawing from the public deposits program, in
29 compliance with all applicable rules, regulations, and
30 reporting requirements of this chapter. Members must possess
31

1 knowledge, skill, and experience in one or more of the
2 following areas:

- 3 (a) Financial analysis;
- 4 (b) Trend analysis;
- 5 (c) Accounting;
- 6 (d) Banking;
- 7 (e) Risk management; or
- 8 (f) Investment management.

9
10 Members' terms shall be for 4 years, ~~except that in making the~~
11 ~~initial appointments, the Treasurer shall appoint from each~~
12 ~~group one member to serve 2 years, one member to serve 3~~
13 ~~years, and one member to serve 4 years.~~ Any person appointed
14 to fill a vacancy on the advisory committee ~~committees~~ may
15 serve only for the remainder of the unexpired term. Any
16 member is eligible for reappointment and shall serve until a
17 successor qualifies. ~~The Treasurer shall appoint a member of~~
18 ~~each advisory committee to serve as its initial chair.~~ The
19 ~~Thereafter, each~~ advisory committee shall elect a chair and
20 vice chair and shall also designate a secretary who need not
21 be a member of the advisory committee. The ~~Each~~ secretary
22 shall keep a record of the proceedings of the ~~his or her~~
23 advisory committee and shall be the custodian of all printed
24 materials filed with or by the advisory committee.
25 Notwithstanding the existence of vacancies on the advisory
26 committee, a majority of the members constitutes a quorum. The
27 ~~Neither~~ advisory committee shall not ~~may~~ take official action
28 in the absence of a quorum. Each member may name a designee
29 to serve on the advisory committee on behalf of the member.
30 However, any designee so named must meet the qualifications
31

1 required of the selected member and be approved by the
2 Treasurer. The advisory committees shall convene as needed.

3 (3)~~(10)~~ Establish goals and objectives and provide
4 other data as may be necessary to assist the advisory
5 committee ~~committees~~ established under subsection (2)~~(9)~~ in
6 developing standards for the program.

7 (4)~~(11)~~ Review, implement, monitor, evaluate, and
8 modify, as needed, all or any part of the standards and
9 policies recommended by an advisory committee.

10 (5)~~(16)~~ Perform financial analysis of any qualified
11 public depository as needed.

12 (6)~~(1)~~ Require such collateral, or increase the
13 collateral-pledging level, of any qualified public depository
14 as may be necessary to administer the provisions of this
15 chapter and to protect the integrity of the public deposits
16 program.

17 (7)~~(18)~~ Establish a minimum amount of required
18 collateral as the Treasurer deems necessary to provide for the
19 contingent liability pool ~~pools~~.

20 (8)~~(2)~~ Decline to accept, or reduce the reported value
21 of, collateral as circumstances may require in order to ensure
22 the pledging of sufficient marketable collateral to meet the
23 purposes of this chapter.

24 (9)~~(15)~~ Maintain perpetual inventory of pledged
25 collateral and perform monthly market valuations and quality
26 ratings.

27 (10)~~(13)~~ Monitor and confirm, as often as deemed
28 necessary by the Treasurer, the pledged collateral held by
29 third party custodians.

30 (11)~~(17)~~ Perfect interest in pledged collateral by
31 having pledged securities moved into an account established in

1 the Treasurer's name. This action shall be taken at the
2 discretion of the Treasurer.

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

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

10 (14)(7) Sell pledged securities, or move pledged
11 securities to an account established in the Treasurer's name,
12 for the purpose of paying losses to public depositors not
13 covered by deposit insurance or to perfect the Treasurer's
14 interest in the pledged securities.

15 (15)(8) Transfer funds directly from the custodian to
16 public depositors or the receiver in order to facilitate
17 prompt payment of claims.

18 (16)(14) Require the filing of and inspect, review, or
19 analyze the following reports which the Treasurer shall
20 process as provided:

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

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

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

10 ~~(d) Public depositors annual reports.~~

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

14 (17)~~(4)~~ Verify the reports of any qualified public
15 depository relating to public deposits it holds when necessary
16 to protect the integrity of the public deposits program.

17 (18)~~(12)~~ Confirm public deposits, to the extent
18 possible under current law, when needed.

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

24 (20)~~(3)~~ Suspend or disqualify or disqualify after
25 suspension any qualified public depository that has violated
26 any of the provisions of this chapter or of rules adopted
27 hereunder.

28 (a) Any qualified public depository that is suspended
29 or disqualified pursuant to this subsection is subject to the
30 provisions of s. 280.11(2) governing withdrawal from the
31 public deposits program and return of pledged collateral. Any

1 suspension shall not exceed a period of 6 months. Any
2 qualified public depository which has been disqualified may
3 not reapply for qualification until after the expiration of 1
4 year from the date of the final order of disqualification or
5 the final disposition of any appeal taken therefrom.

6 (b) ~~If the Treasurer finds that one or more grounds~~
7 ~~exist for the suspension or disqualification of a qualified~~
8 ~~public depository, he or she may,~~In lieu of such suspension
9 or disqualification, impose an administrative penalty upon the
10 qualified public depository as provided in s. 280.054.

11 (c) If the Treasurer has reason to believe that any
12 qualified public depository or any other financial institution
13 holding public deposits is or has been violating any of the
14 provisions of this chapter or of rules adopted hereunder, he
15 or she may issue to the qualified public depository or other
16 financial institution an order to cease and desist from the
17 violation or to correct the condition giving rise to or
18 resulting from the violation. If any qualified public
19 depository or other financial institution violates a
20 cease-and-desist or corrective order, the Treasurer may impose
21 an administrative penalty upon the qualified public depository
22 or other financial institution as provided in s. 280.054 or s.
23 280.055. In addition to the administrative penalty, the
24 Treasurer may suspend or disqualify any qualified public
25 depository for violation of any order issued pursuant to this
26 paragraph.

27 ~~(5) Allow an exception to public deposit limitations~~
28 ~~of any qualified public depository that has contracted with~~
29 ~~the Treasurer to clear the receipts of the State of Florida to~~
30 ~~the extent, and only to the extent, that clearing the receipts~~
31 ~~would violate this chapter.~~

1 Section 12. Section 280.07, Florida Statutes, is
2 amended to read:

3 280.07 Mutual responsibility.--Any bank or savings
4 association that is designated as a qualified public
5 depository and that is not insolvent shall guarantee public
6 depositors against loss caused by the default or insolvency of
7 other qualified public depositories ~~of the same type.~~ Each
8 qualified public depository shall execute a form prescribed by
9 the Treasurer for such guarantee which shall be approved by
10 the board of directors and shall become an official record of
11 the institution.~~The Treasurer shall maintain separate and~~
12 ~~totally independent contingent liability agreements, one such~~
13 ~~agreement exclusively for banks and another exclusively for~~
14 ~~savings associations.~~

15 Section 13. Subsections (2) and (3) of section 280.08,
16 Florida Statutes, are amended to read:

17 280.08 Procedure for payment of losses.--When the
18 Treasurer determines that a default or insolvency has
19 occurred, he or she shall provide notice as required in s.
20 280.085(1) and implement the following procedures:

21 (2) The potential loss to public depositors shall be
22 calculated by compiling claims received from such depositors.
23 The Treasurer shall validate claims on public deposit accounts
24 which meet the requirements of s. 280.17 and are confirmed as
25 provided in subsection (1).~~Such claims shall be validated by~~
26 ~~the Treasurer.~~

27 (3)(a) The loss to public depositors shall be
28 satisfied, insofar as possible, first through any applicable
29 deposit insurance and then through the sale of securities
30 pledged or deposited by the defaulting depository. The
31 Treasurer may assess qualified public depositories as provided

1 in paragraph (b) for the total loss if the sale of securities
2 cannot be accomplished within 7 business days.

3 ~~(b)(3) If the loss to public depositors is not covered~~
4 ~~by such insurance or the proceeds of such sale, The Treasurer~~
5 shall provide coverage of any ~~the~~ remaining loss by assessment
6 against the other qualified public depositories ~~of the same~~
7 ~~type as the depository in default. However, if the sale of~~
8 ~~securities cannot be accomplished within 7 days, the Treasurer~~
9 ~~may proceed with the assessment to qualified public~~
10 ~~depositories. The Treasurer shall determine~~ such assessment
11 for each qualified public depository shall be determined by
12 multiplying the total amount of any remaining ~~the~~ loss to all
13 public depositors by a percentage which represents the average
14 monthly balance ~~share~~ of public ~~fund~~ deposits held by each
15 ~~that~~ qualified public depository during the previous 12 months
16 divided by the ~~average~~ total average monthly balances of
17 public deposits held by all qualified public depositories,
18 excluding the defaulting depository, of the same type during
19 the same ~~12-month~~ period. The assessment calculation shall be
20 computed to six decimal places.

21 Section 14. Section 280.16, Florida Statutes, is
22 amended to read:

23 280.16 Requirements ~~Reports~~ of qualified public
24 depositories; confidentiality.--

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

27 (a) Beginning July 1, 1998, take the following actions
28 for each public deposit account:

29 1. Identify the account as a "Florida public deposit"
30 on the deposit account record with the name of the public
31

1 depositor or provide a unique code for the account for such
2 designation.

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

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

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

22 (b)(1) Within 15 days after the end of each calendar
23 month, or when requested by the Treasurer, ~~each qualified~~
24 ~~public depository shall~~ submit to the Treasurer a written
25 report, under oath, indicating the average daily balance of
26 all public deposits held by it during the reported month,
27 required collateral, a detailed schedule of all securities
28 pledged as collateral, selected financial information, and any
29 other information that the Treasurer determines necessary to
30 administer this chapter.

31

1 (c) Provide to each public depositor annually, not
2 later than October 30, the following information on all open
3 accounts identified as a "Florida public deposit" for that
4 public depositor as of September 30, to be used for
5 confirmation purposes: the federal employer identification
6 number of the qualified public depository, the name on the
7 deposit account record, the federal employer identification
8 number on the deposit account record, and the account number,
9 account type, and actual account balance on deposit. Any
10 discrepancy found in the confirmation process shall be
11 reconciled before November 30.

12 ~~(d)(2)~~ Submit to the Treasurer annually, not later
13 than November 30 ~~15, each qualified public depository shall~~
14 ~~cause to be delivered to the Treasurer, from the president or~~
15 ~~chief executive officer of the depository or a person~~
16 ~~qualified to conduct audits, a report statement of all public~~
17 ~~deposits held for the credit of all public depositors at the~~
18 ~~close of business on September 30 each year. Such annual~~
19 ~~report shall consist of public deposit information in a report~~
20 ~~format prescribed by the Treasurer. The manner of required~~
21 ~~filing may be as a signed writing or electronic data~~
22 ~~transmission, at the discretion of the Treasurer.~~

23 ~~(e)(3)~~ In addition to the reports required in
24 ~~subsections (1) and (2), each qualified public depository~~
25 ~~shall~~ Submit to the Treasurer not later than within 10 days
26 ~~after~~ the date it is required to be filed with the federal
27 agency:

28 1.(a) A copy of the quarterly Consolidated Reports of
29 Condition and Income, and any amended reports, required by the
30 Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if
31 such depository is a bank; or

1 2.~~(b)~~ A copy of the Thrift Financial Report, and any
2 amended reports, required to be filed with the Office of
3 Thrift Supervision if such depository is a savings and loan
4 association.

5 (2)~~(4)~~ ~~In addition to the requirements of subsection~~
6 ~~(1)~~,The following forms must be made under oath:

7 (a) The agreement of contingent liability.

8 (b) The public depository pledge agreement.

9 ~~(c) The public depository change of name, address, and~~
10 ~~type of institution.~~

11 (3)~~(5)~~ Any information contained in a report of a
12 qualified public depository required under this chapter or any
13 rule adopted under this chapter, together with any information
14 required of a financial institution that is not a qualified
15 public depository, shall, if made confidential by any law of
16 the United States or of this state, be considered confidential
17 and exempt from the provisions of s. 119.07(1) and not subject
18 to dissemination to anyone other than the Treasurer under the
19 provisions of this chapter; however, it is the responsibility
20 of each qualified public depository and each financial
21 institution from which information is required to inform the
22 Treasurer of information that is confidential and the law
23 providing for the confidentiality of that information, and the
24 Treasurer does not have a duty to inquire into whether
25 information is confidential.

26 Section 15. Section 280.17, Florida Statutes, is
27 amended to read:

28 280.17 Requirements for public depositors; notice to
29 public depositors and governmental units; loss of
30 protection.--In addition to any other requirement specified in
31

1 this chapter, public depositors shall ~~must~~ comply with the
2 following requirements:

3 (1)(a) Each official custodian of moneys, that meet
4 the definition of a public deposit under s. 280.02, shall
5 ensure such moneys are placed in a qualified public depository
6 unless the moneys are exempt under the laws of this state.

7 (b) Each depositor, asserting that moneys meet the
8 definition of a public deposit provided in s. 280.02 and are
9 not exempt under the laws of this state, is responsible for
10 any research or defense required to support such assertion.

11 (2)(1) Beginning July 1, 1998, each public depositor
12 shall take the following actions for each public deposit
13 account: ~~must~~

14 (a) Ensure that the name of the public depositor is on
15 the account or certificate or other form provided to the
16 public depositor by the qualified public depository in a
17 manner sufficient to identify that the account is a Florida
18 public deposit.

19 (b) Execute a form prescribed by the Treasurer for
20 identification of each public deposit account and obtain
21 acknowledgment of receipt on the form from the qualified
22 public depository at the time of opening the account. Such
23 public deposit identification and acknowledgment form shall be
24 replaced with a current form as required in subsection (3). A
25 public deposit account existing before July 1, 1998, must have
26 a form completed before September 30, 1998.

27 (c) Maintain the current public deposit identification
28 and acknowledgment form as a valuable record. Such form is
29 mandatory for filing a claim with the Treasurer upon default
30 or insolvency of a qualified public depository.

31

1 (3) Each public depositor shall review the Treasurer's
2 published list of qualified public depositories and ascertain
3 the status of depositories used. A public depositor shall,
4 for status changes of depositories:

5 (a) Execute a replacement public deposit
6 identification and acknowledgment form, as described in
7 subsection (2), for each public deposit account when there is
8 a merger, acquisition, name change, or other event which
9 changes the account name, account number, or name of the
10 qualified public depository.

11 (b) Move and close public deposit accounts when an
12 institution is not included in the authorized list of
13 qualified public depositories or is shown as withdrawing.

14 ~~(4)(2)~~ Whenever public deposits are ~~Each public~~
15 ~~depositor who has assets on deposit~~ in a qualified public
16 depository that has been declared to be ~~is~~ in default or ~~is~~
17 insolvent, each public depositor shall: ~~must~~

18 (a) Notify the Treasurer ~~of that fact~~ immediately by
19 telecommunication after receiving notice of the default or
20 insolvency from the receiver of the depository with subsequent
21 written confirmation and a copy of the notice.

22 (b) Submit to the Treasurer for each public deposit,
23 within 30 days after the date of official notification from
24 the Treasurer, the following:

25 1. A claim form and agreement, as prescribed by the
26 Treasurer, executed under oath, accompanied by proof of
27 authority to execute the form on behalf of the public
28 depositor.

29 2. A completed public deposit identification and
30 acknowledgment form, as described in subsection (2).

31

1 3. Evidence of the insurance afforded the deposit
2 pursuant to the Federal Deposit Insurance Act.

3 ~~(5)(3)~~ Each public depositor shall confirm annually
4 that public deposit information as of the close of business on
5 September 30 has been provided by each qualified public
6 depository and is in agreement with public depositor records.
7 Such confirmation shall include the federal employer
8 identification number of the qualified public depository, the
9 name on the deposit account record, the federal employer
10 identification number on the deposit account record, and the
11 account number, account type, and actual account balance on
12 deposit. Public depositors shall request such confirmation
13 information from qualified public depositories on or before
14 the fifth calendar day of October and shall allow until
15 October 31 to receive such information. Any discrepancy found
16 in the confirmation process shall be reconciled before
17 November 30.

18 (6) Each public depositor shall submit, not later than
19 November 30 ~~15~~, an annual report to ~~each public depositor~~
20 ~~shall notify~~ the Treasurer which shall include:

21 (a) The ~~of its~~ official name, mailing address, and
22 federal employer identification number of the public
23 depositor, and account balances at the close of business on
24 September 30.

25 (b) Verification that confirmation of public deposit
26 information as of September 30, as described in subsection
27 (5), has been completed.

28 (c) Public deposit information in a report format
29 prescribed by the Treasurer. The manner of required filing
30 may be as a signed writing or electronic data transmission, at
31 the discretion of the Treasurer.

1 (d) Confirmation that a current public deposit
2 identification and acknowledgment form, as described in
3 subsection (2), has been completed for each public deposit
4 account and is in the possession of the public depositor.~~This~~
5 ~~notification shall include the name of the institutions with~~
6 ~~whom accounts are established and, for each institution~~
7 ~~listed, the account name, number, balance, type, and federal~~
8 ~~employer identification number.~~

9 (7)(4) Notices relating to the public deposits program
10 shall be mailed to public depositors and governmental units
11 from a list developed annually from:

12 (a) Public depositors that filed an annual report
13 under subsection (6).

14 (b) Governmental units existing on September 30 that
15 had no public deposits but filed an annual report stating "no
16 public deposits".

17 (c) Governmental units ~~A public entity~~ established
18 during the year that filed an annual report as a new
19 governmental unit or otherwise furnished in writing to the
20 Treasurer ~~shall furnish~~ its official name, address, and
21 federal employer identification number ~~to the Treasurer prior~~
22 ~~to making any public deposit.~~

23 (8)(5) If a public depositor does not comply with this
24 section on each public deposit account, the protection from
25 loss provided in s. 280.18 is not effective as to that public
26 deposit account ~~depositor.~~

27 Section 16. Section 280.18, Florida Statutes, is
28 amended to read:

29 280.18 Protection ~~Liability~~ of public depositors and
30 the state.--

31

1 (1) When public deposits are made in accordance with
2 this chapter, there shall be protection from loss to public
3 depositors, as defined in s. 280.02,~~no public depositor shall~~
4 ~~be liable for any loss thereof resulting from the default or~~
5 ~~insolvency of any qualified public depository in the absence~~
6 ~~of negligence, malfeasance, misfeasance, or nonfeasance on the~~
7 ~~part of the public depositor~~ depositor's part or on the part
8 of his or her agents or employees.

9 (2) The liability of the state, the Treasurer, or any
10 state agency, or any employee or agent of the state, the
11 Treasurer, or a state agency, for any action taken in the
12 performance of their powers and duties under this chapter
13 shall be limited to that as a public depositor.~~Under no~~
14 ~~circumstance is the state, or any state agency or subdivision~~
15 ~~of the state, liable for all or any portion of any loss~~
16 ~~resulting from the default or insolvency of a qualified public~~
17 ~~depository.~~

18 Section 17. Subsection (2) of section 331.309, Florida
19 Statutes, is amended to read:

20 331.309 Treasurer; depositories; fiscal agent.--

21 (2) The board is authorized to select as depositories
22 in which the funds of the board and of the authority shall be
23 deposited any qualified public depository as defined in s.
24 280.02 ~~banking corporation or other financial institution~~
25 ~~organized under the laws of the state, or under the laws of~~
26 ~~the United States and doing business in the state,~~ upon such
27 terms and conditions as to the payment of interest by such
28 depository upon the funds so deposited as the board may deem
29 just and reasonable. The funds of the authority may be kept in
30 or removed from the State Treasury upon written notification
31 from the chair of the board to the state Comptroller.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Section 18. This act shall take effect October 1 of the year in which enacted.

LEGISLATIVE SUMMARY

Clarifies that public funds are to be invested in deposits or accounts of qualified public depositories or depositories chartered by the Federal Government or Florida or any other state or territory of the United States that has a branch or principal place of business in Florida. Revises requirements and procedures for public deposits, qualified public depositories, and public depositors. See bill for details.