

By Representative Maygarden

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:  
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1           Section 1. Paragraph (c) of subsection (1) and  
2 subsection (2) of section 125.31, Florida Statutes, are  
3 amended to read:

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

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

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

21           (2)(a) Every security purchased under this section on  
22 behalf of the governing body of a county shall be properly  
23 earmarked and:

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

27           2. If in book entry form, shall be held for the credit  
28 of the governing body of the county by a depository chartered  
29 by ~~either~~ the Federal Government, ~~or~~ the state, or any other  
30 state or territory of the United States, that has a branch or  
31 principal place of business in this state, and shall be kept

1 by the depository in an account separate and apart from the  
2 assets of the financial institution; or

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

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

18 Section 2. Section 136.01, Florida Statutes, is  
19 amended to read:

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

1 funds of the county, the board of county commissioners or the  
2 several county officers, the school board, or the community  
3 college district board of trustees be included.

4 Section 3. Section 159.09, Florida Statutes, is  
5 amended to read:

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

1 indentures securing bonds or debentures of corporations. In  
2 addition to the foregoing, such ordinance or resolution or  
3 such trust agreement may contain such other provisions as the  
4 governing body may deem reasonable and proper for the security  
5 of bondholders. Except as in this part otherwise provided,  
6 the governing body may provide, by ordinance or resolution or  
7 by such trust agreement, for the payment of the proceeds of  
8 the sale of the bonds and the revenues of the project to such  
9 officer, board or depository as it may determine for the  
10 custody thereof, and for the method of disbursement thereof,  
11 with such safeguards and restrictions as it may determine.  
12 All expenses incurred in carrying out such trust agreement may  
13 be treated as a part of the cost of operation of the project  
14 affected by such trust agreement.

15 Section 4. Paragraph (c) of subsection (1) and  
16 subsection (2) of section 166.261, Florida Statutes, are  
17 amended to read:

18 166.261 Municipalities; investments.--

19 (1) Unless otherwise authorized by law or by  
20 ordinance, the governing body of each municipality shall, by  
21 resolution to be adopted from time to time, invest and  
22 reinvest any surplus public funds in its control or possession  
23 in:

24 (c) Interest-bearing time deposits or savings accounts  
25 in qualified public depositories as defined in s. 280.02 ~~banks~~  
26 ~~organized under the laws of this state, in national banks~~  
27 ~~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 (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. Paragraph (c) of subsection (1) and  
2 paragraph (b) of subsection (2) of section 218.345, Florida  
3 Statutes, are 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           (c) Interest-bearing time deposits or savings accounts  
10 in qualified public depositories as defined in s. 280.02 ~~banks~~  
11 ~~organized under the laws of this state, in national banks~~  
12 ~~organized under the laws of the United States and doing~~  
13 ~~business and situated in this state, in savings and loan~~  
14 ~~associations which are under state supervision, or in federal~~  
15 ~~savings and loan associations located in this state and~~  
16 ~~organized under federal law and federal supervision, provided~~  
17 ~~that any such deposits are secured by collateral as may be~~  
18 ~~prescribed by law;~~

19           (2)

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

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

1           236.24 Sources of district school fund.--  
2           (2)(a) Unless otherwise authorized by law or by  
3 ordinance, each school board shall, by resolution to be  
4 adopted from time to time, invest and reinvest any surplus  
5 public funds in its control or possession in:  
6           1. The Local Government Surplus Funds Trust Fund;  
7           2. Negotiable direct obligations of, or obligations  
8 the principal and interest of which are unconditionally  
9 guaranteed by, the United States Government at the then  
10 prevailing market price for such securities;  
11           3. Interest-bearing time deposits or savings accounts  
12 in qualified public depositories as defined in s. 280.02 banks  
13 ~~organized under the laws of this state, in national banks~~  
14 ~~organized under the laws of the United States and doing~~  
15 ~~business and situated in this state, in savings and loan~~  
16 ~~associations which are under state supervision, or in federal~~  
17 ~~savings and loan associations located in this state and~~  
18 ~~organized under federal law and federal supervision, provided~~  
19 ~~that any such deposits are secured by collateral as may be~~  
20 ~~prescribed by law;~~  
21           4. Obligations of the federal farm credit banks; the  
22 Federal Home Loan Mortgage Corporation, including Federal Home  
23 Loan Mortgage Corporation participation certificates; or the  
24 Federal Home Loan Bank or its district banks or obligations  
25 guaranteed by the Government National Mortgage Association;  
26           5. Obligations of the Federal National Mortgage  
27 Association, including Federal National Mortgage Association  
28 participation certificates and mortgage pass-through  
29 certificates guaranteed by the Federal National Mortgage  
30 Association; or  
31



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

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

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

27           3. The school board may also receive bank trust  
28 receipts in return for investment of surplus funds in  
29 securities. Any trust receipts received must enumerate the  
30 various securities held together with the specific number of  
31 each security held. The actual securities on which the trust

1 receipts are issued may be held by any bank depository  
2 chartered by the United States Government, ~~or~~ the State of  
3 Florida, or any other state or territory of the United States,  
4 that has a branch or principal place of business in this  
5 state, or their designated agents.

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

8 255.502 Definitions; ss. 255.501-255.525.--As used in  
9 this act, the following words and terms shall have the  
10 following meanings unless the context otherwise requires:

11 (4) "Authorized investments" means and includes  
12 without limitation any investment in:

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

25  
26 Investments in any security authorized in this subsection may  
27 be under repurchase agreements or reverse repurchase  
28 agreements.

29 Section 8. Subsections (11) through (19) of section  
30 280.02, Florida Statutes, are renumbered as subsections (12)  
31 through (20), respectively, a new subsection (11) is added to

1 said section, and present subsection (16) is renumbered and  
2 amended, to read:

3 280.02 Definitions.--As used in this chapter, the  
4 term:

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

10 (17)(16) "Qualified public depository" means any bank,  
11 savings bank, or savings association that:

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

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

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

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

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

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

28 Section 9. Section 280.03, Florida Statutes, is  
29 amended to read:

30 280.03 Public deposits to be secured; prohibitions;  
31 exemptions ~~exceptions~~.--

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

4           (b) Public deposits shall be made in a qualified  
5 public depository unless exempted by law.~~Notwithstanding the~~  
6 ~~provisions of any other law, a public deposit as defined in s.~~  
7 ~~280.02(13) may be deposited in a qualified public depository~~  
8 ~~as defined in s. 280.02(16).~~

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

13           ~~(3)(2)~~ The following are exempt from the requirements  
14 of, and protection under, this chapter:

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

26           (b) Moneys of the System Trust Fund, as defined in s.  
27 121.021(36), ~~are exempt from the requirements of this chapter.~~

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

30           ~~(d)(4)~~ Wire transfers and transfers of funds ~~for a~~  
31 ~~period not exceeding 7 days solely for the purpose of paying~~

1 registrars and paying agents ~~are exempt from the requirements~~  
2 ~~of this chapter.~~

3 (e) Public deposits which are fully secured under  
4 federal regulations.

5 Section 10. Paragraph (d) of subsection (1) of section  
6 280.04, Florida Statutes, is amended to read:

7 280.04 Collateral for public deposits; general  
8 provisions.--

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

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

28 Section 11. Section 280.05, Florida Statutes, is  
29 amended to read:  
30  
31

1           280.05 Powers and duties of the Treasurer.--In  
2 fulfilling the requirements of this act, the Treasurer has the  
3 power to:

4           (1)~~(6)~~ Establish criteria, based on the overall  
5 financial condition of the participant and applicants, as may  
6 be necessary, to protect the integrity of the public deposits  
7 program, to:

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

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

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

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

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

17           (2)~~(9)~~ Appoint a six-member ~~two separate three-member~~  
18 advisory committee ~~committees, one for banks and one for~~  
19 ~~savings associations~~, to review and recommend criteria to be  
20 used by the Treasurer for purposes stated in subsection (1)  
21 ~~(6)~~ in order to protect public deposits and the depositories  
22 in the program. Each member selected to serve on the an  
23 advisory committee must be a representative of his or her  
24 ~~respective~~ industry. Advisory committee members must  
25 represent active qualified public depositories, not in the  
26 process of withdrawing from the public deposits program, in  
27 compliance with all applicable rules, regulations, and  
28 reporting requirements of this chapter. Members must possess  
29 knowledge, skill, and experience in one or more of the  
30 following areas:

31           (a) Financial analysis;

- 1 (b) Trend analysis;  
2 (c) Accounting;  
3 (d) Banking;  
4 (e) Risk management; or  
5 (f) Investment management.  
6

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

1           (3)~~(10)~~ Establish goals and objectives and provide  
2 other data as may be necessary to assist the advisory  
3 committee ~~committees~~ established under subsection (2)~~(9)~~ in  
4 developing standards for the program.

5           (4)~~(11)~~ Review, implement, monitor, evaluate, and  
6 modify, as needed, all or any part of the standards and  
7 policies recommended by an advisory committee.

8           (5)~~(16)~~ Perform financial analysis of any qualified  
9 public depository as needed.

10           (6)~~(1)~~ Require such collateral, or increase the  
11 collateral-pledging level, of any qualified public depository  
12 as may be necessary to administer the provisions of this  
13 chapter and to protect the integrity of the public deposits  
14 program.

15           (7)~~(18)~~ Establish a minimum amount of required  
16 collateral as the Treasurer deems necessary to provide for the  
17 contingent liability pool ~~pools~~.

18           (8)~~(2)~~ Decline to accept, or reduce the reported value  
19 of, collateral as circumstances may require in order to ensure  
20 the pledging of sufficient marketable collateral to meet the  
21 purposes of this chapter.

22           (9)~~(15)~~ Maintain perpetual inventory of pledged  
23 collateral and perform monthly market valuations and quality  
24 ratings.

25           (10)~~(13)~~ Monitor and confirm, as often as deemed  
26 necessary by the Treasurer, the pledged collateral held by  
27 third party custodians.

28           (11)~~(17)~~ Perfect interest in pledged collateral by  
29 having pledged securities moved into an account established in  
30 the Treasurer's name. This action shall be taken at the  
31 discretion of the Treasurer.



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

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

8       ~~(14)(7) Sell pledged securities, or move pledged~~  
9 ~~securities to an account established in the Treasurer's name,~~  
10 ~~for the purpose of paying losses to public depositors not~~  
11 ~~covered by deposit insurance or to perfect the Treasurer's~~  
12 ~~interest in the pledged securities.~~

13       ~~(15)(8) Transfer funds directly from the custodian to~~  
14 ~~public depositors or the receiver in order to facilitate~~  
15 ~~prompt payment of claims.~~

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

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

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

30           (c) Qualified public depository annual reports and  
31 public depositor annual reports. The Treasurer shall compare

1 public deposit information reported by qualified public  
2 depositories and public depositors. Such comparison shall be  
3 conducted for qualified public depositories which are ranked  
4 in the lowest category based on established financial  
5 condition criteria of record on September 30. Additional  
6 comparison processes may be performed as public deposits  
7 program resources permit.

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

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

12 (17)(4) Verify the reports of any qualified public  
13 depository relating to public deposits it holds when necessary  
14 to protect the integrity of the public deposits program.

15 (18)(12) Confirm public deposits, to the extent  
16 possible under current law, when needed.

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

22 (20)(3) Suspend or disqualify or disqualify after  
23 suspension any qualified public depository that has violated  
24 any of the provisions of this chapter or of rules adopted  
25 hereunder.

26 (a) Any qualified public depository that is suspended  
27 or disqualified pursuant to this subsection is subject to the  
28 provisions of s. 280.11(2) governing withdrawal from the  
29 public deposits program and return of pledged collateral. Any  
30 suspension shall not exceed a period of 6 months. Any  
31 qualified public depository which has been disqualified may

1 not reapply for qualification until after the expiration of 1  
2 year from the date of the final order of disqualification or  
3 the final disposition of any appeal taken therefrom.

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

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

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

30 Section 12. Section 280.07, Florida Statutes, is  
31 amended to read:

1           280.07 Mutual responsibility.--Any bank or savings  
2 association that is designated as a qualified public  
3 depository and that is not insolvent shall guarantee public  
4 depositors against loss caused by the default or insolvency of  
5 other qualified public depositories ~~of the same type~~. Each  
6 qualified public depository shall execute a form prescribed by  
7 the Treasurer for such guarantee which shall be approved by  
8 the board of directors and shall become an official record of  
9 the institution.~~The Treasurer shall maintain separate and~~  
10 ~~totally independent contingent liability agreements, one such~~  
11 ~~agreement exclusively for banks and another exclusively for~~  
12 ~~savings associations.~~

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

15           280.08 Procedure for payment of losses.--When the  
16 Treasurer determines that a default or insolvency has  
17 occurred, he or she shall provide notice as required in s.  
18 280.085(1) and implement the following procedures:

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

25           (3)(a) The loss to public depositors shall be  
26 satisfied, insofar as possible, first through any applicable  
27 deposit insurance and then through the sale of securities  
28 pledged or deposited by the defaulting depository. The  
29 Treasurer may assess qualified public depositories as provided  
30 in paragraph (b) for the total loss if the sale of securities  
31 cannot be accomplished within 7 business days.

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

19        Section 14. Section 280.16, Florida Statutes, is  
20 amended to read:

21        280.16 Requirements ~~Reports~~ of qualified public  
22 depositories; confidentiality.--

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

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

27        1. Identify the account as a "Florida public deposit"  
28 on the deposit account record with the name of the public  
29 depositor or provide a unique code for the account for such  
30 designation.

31

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

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

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

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

29           (c) Provide to each public depositor annually, not  
30 later than October 30, the following information on all open  
31 accounts identified as a "Florida public deposit" for that

1 public depositor as of September 30, to be used for  
2 confirmation purposes: the federal employer identification  
3 number of the qualified public depository, the name on the  
4 deposit account record, the federal employer identification  
5 number on the deposit account record, and the account number,  
6 account type, and actual account balance on deposit. Any  
7 discrepancy found in the confirmation process shall be  
8 reconciled before November 30.

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

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

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

29 2.(b) A copy of the Thrift Financial Report, and any  
30 amended reports, required to be filed with the Office of  
31

1 Thrift Supervision if such depository is a savings and loan  
2 association.

3 ~~(2)(4)~~ ~~In addition to the requirements of subsection~~  
4 ~~(1)~~,The following forms must be made under oath:

5 (a) The agreement of contingent liability.

6 (b) The public depository pledge agreement.

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

9 ~~(3)(5)~~ Any information contained in a report of a  
10 qualified public depository required under this chapter or any  
11 rule adopted under this chapter, together with any information  
12 required of a financial institution that is not a qualified  
13 public depository, shall, if made confidential by any law of  
14 the United States,or of this state, or any other state in  
15 which the financial institution is chartered,be considered  
16 confidential and exempt from the provisions of s. 119.07(1)  
17 and not subject to dissemination to anyone other than the  
18 Treasurer under the provisions of this chapter; however, it is  
19 the responsibility of each qualified public depository and  
20 each financial institution from which information is required  
21 to inform the Treasurer of information that is confidential  
22 and the law providing for the confidentiality of that  
23 information, and the Treasurer does not have a duty to inquire  
24 into whether information is confidential.

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

27 280.17 Requirements for public depositors; notice to  
28 public depositors and governmental units; loss of  
29 protection.--In addition to any other requirement specified in  
30 this chapter, public depositors shall ~~must~~ comply with the  
31 following requirements:



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

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

9       (2)~~(1)~~ Beginning July 1, 1998, each public depositor  
10 shall take the following actions for each public deposit  
11 account: ~~must~~

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

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

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

29       (3) Each public depositor shall review the Treasurer's  
30 published list of qualified public depositories and ascertain  
31

1 the status of depositories used. A public depositor shall,  
2 for status changes of depositories:  
3 (a) Execute a replacement public deposit  
4 identification and acknowledgment form, as described in  
5 subsection (2), for each public deposit account when there is  
6 a merger, acquisition, name change, or other event which  
7 changes the account name, account number, or name of the  
8 qualified public depository.  
9 (b) Move and close public deposit accounts when an  
10 institution is not included in the authorized list of  
11 qualified public depositories or is shown as withdrawing.  
12 (4)(2) Whenever public deposits are ~~Each public~~  
13 ~~depositor who has assets on deposit~~ in a qualified public  
14 depository that has been declared to be ~~is~~ in default or ~~is~~  
15 insolvent, each public depositor shall: ~~must~~  
16 (a) Notify the Treasurer ~~of that fact~~ immediately by  
17 telecommunication after receiving notice of the default or  
18 insolvency from the receiver of the depository with subsequent  
19 written confirmation and a copy of the notice.  
20 (b) Submit to the Treasurer for each public deposit,  
21 within 30 days after the date of official notification from  
22 the Treasurer, the following:  
23 1. A claim form and agreement, as prescribed by the  
24 Treasurer, executed under oath, accompanied by proof of  
25 authority to execute the form on behalf of the public  
26 depositor.  
27 2. A completed public deposit identification and  
28 acknowledgment form, as described in subsection (2).  
29 3. Evidence of the insurance afforded the deposit  
30 pursuant to the Federal Deposit Insurance Act.  
31

1        (5)(3) Each public depositor shall confirm annually  
2 that public deposit information as of the close of business on  
3 September 30 has been provided by each qualified public  
4 depository and is in agreement with public depositor records.  
5 Such confirmation shall include the federal employer  
6 identification number of the qualified public depository, the  
7 name on the deposit account record, the federal employer  
8 identification number on the deposit account record, and the  
9 account number, account type, and actual account balance on  
10 deposit. Public depositors shall request such confirmation  
11 information from qualified public depositories on or before  
12 the fifth calendar day of October and shall allow until  
13 October 31 to receive such information. Any discrepancy found  
14 in the confirmation process shall be reconciled before  
15 November 30.

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

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

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

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

30            (d) Confirmation that a current public deposit  
31 identification and acknowledgment form, as described in

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

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

10 (a) Public depositors that filed an annual report  
11 under subsection (6).

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

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

21 (8)(5) If a public depositor does not comply with this  
22 section on each public deposit account, the protection from  
23 loss provided in s. 280.18 is not effective as to that public  
24 deposit account depositor.

25 Section 16. Section 280.18, Florida Statutes, is  
26 amended to read:

27 280.18 Protection ~~Liability~~ of public depositors;  
28 liability of ~~and~~ the state.--

29 (1) When public deposits are made in accordance with  
30 this chapter, there shall be protection from loss to public  
31 depositors, as defined in s. 280.02,~~no public depositor shall~~

1 ~~be liable for any loss thereof resulting from the default or~~  
2 ~~insolvency of any qualified public depository in the absence~~  
3 ~~of negligence, malfeasance, misfeasance, or nonfeasance on the~~  
4 ~~part of the public depository ~~depositor's part~~ or on the part~~  
5 ~~of his or her agents or employees.~~

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

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

17       331.309 Treasurer; depositories; fiscal agent.--

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

29       Section 18. This act shall take effect July 1 of the  
30 year in which enacted.

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HOUSE 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.