

1
2 An act relating to financial matters; amending
3 s. 18.10, F.S., which provides requirements for
4 deposit and investment of state money; revising
5 the standards that certain corporate
6 obligations and state and local government
7 obligations must meet to be qualified for such
8 investment; authorizing investment in certain
9 foreign bonds and certain convertible debt
10 obligations of corporations domiciled in the
11 United States; amending s. 766.315, F.S.;
12 providing that the investment of funds by the
13 Florida Birth-Related Neurological Injury
14 Compensation Association is subject to the
15 provisions of s. 215.47, F.S.; amending s.
16 626.8473, F.S.; providing for funds to be held
17 in trust by a title insurance agent to be held
18 in the same manner required for deposits of
19 state funds; amending ss. 125.31, 136.01,
20 159.09, 166.261, 218.345, 236.24, 255.502, and
21 331.309, F.S.; providing for deposit of certain
22 public funds in qualified public depositories
23 or certain chartered depositories; amending s.
24 280.02, F.S.; defining governmental unit;
25 revising the definition of qualified public
26 depository; amending s. 280.03, F.S.; requiring
27 deposit of public deposits into qualified
28 public depositories; providing exemptions;
29 amending s. 280.04, F.S.; clarifying certain
30 collateral requirements; amending s. 280.05,
31 F.S.; revising provisions providing powers and

1 duties of the Treasurer; amending s. 280.07,
2 F.S.; requiring qualified public depositories
3 to execute a form for certain purposes;
4 amending s. 280.08, F.S.; revising procedures
5 for payment of losses; amending s. 280.16,
6 F.S.; providing requirements for qualified
7 public depositories; amending s. 280.17, F.S.;
8 revising requirements for public depositors;
9 amending s. 280.18, F.S.; providing for
10 protection from loss to public depositors;
11 limiting liability of the state and the
12 Treasurer; providing an effective date.

13

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

15

16 Section 1. Subsection (2) of section 18.10, Florida
17 Statutes, is amended to read:

18 18.10 Deposits and investments of state money.--

19 (2) The Treasurer shall make funds available to meet
20 the disbursement needs of the state. Funds which are not
21 needed for this purpose shall be placed in qualified public
22 depositories that will pay rates established by the Treasurer
23 at levels not less than the prevailing rate for United States
24 Treasury securities with a corresponding maturity. In the
25 event money is available for interest-bearing time deposits or
26 savings accounts as provided herein and qualified public
27 depositories are unwilling to accept such money and pay
28 thereon the rates established above, then such money which
29 qualified public depositories are unwilling to accept shall be
30 invested in:

31 (a) Direct United States Treasury obligations.

- 1 (b) Obligations of the Federal Farm Credit Banks.
- 2 (c) Obligations of the Federal Home Loan Bank and its
3 district banks.
- 4 (d) Obligations of the Federal Home Loan Mortgage
5 Corporation, including participation certificates.
- 6 (e) Obligations guaranteed by the Government National
7 Mortgage Association.
- 8 (f) Obligations of the Federal National Mortgage
9 Association.
- 10 (g) Commercial paper of prime quality of the highest
11 letter and numerical rating as provided for by at least one
12 nationally recognized rating service.
- 13 (h) Time drafts or bills of exchange drawn on and
14 accepted by a commercial bank, otherwise known as "bankers
15 acceptances," which are accepted by a member bank of the
16 Federal Reserve System having total deposits of not less than
17 \$400 million or which are accepted by a commercial bank which
18 is not a member of the Federal Reserve System with deposits of
19 not less than \$400 million and which is licensed by a state
20 government or the Federal Government, and whose senior debt
21 issues are rated in one of the two highest rating categories
22 by a nationally recognized rating service and which are held
23 in custody by a domestic bank which is a member of the Federal
24 Reserve System.
- 25 (i) ~~Intermediate-term~~ Corporate obligations or
26 corporate master notes of any corporation within the United
27 States, if the long-term obligations of such corporation are
28 rated by at least two nationally recognized rating services in
29 any one of the four ~~three~~ highest classifications. However, if
30 such obligations are rated by on ly one nationally recognized
31

1 rating service, then the obligations shall be rated in any one
2 of the two highest classifications.

3 (j) Obligations of the Student Loan Marketing
4 Association.

5 (k) Obligations of the Resolution Funding Corporation.

6 (l) Asset-backed or mortgage-backed securities of the
7 highest credit quality.

8 (m) Any obligations not previously listed which are
9 guaranteed as to principal and interest by the full faith and
10 credit of the United States Government or are obligations of
11 United States agencies or instrumentalities which are rated in
12 the highest category by a nationally recognized rating
13 service.

14 (n) Commingled no-load investment funds or no-load
15 mutual funds in which all securities held by the funds are
16 authorized in this subsection.

17 (o) Money market mutual funds as defined and regulated
18 by the Securities and Exchange Commission.

19 (p) Obligations of state and local governments rated
20 in any of the four ~~three~~ highest classifications by at least
21 two ~~one or more~~ nationally recognized rating services ~~if their~~
22 ~~purchase is for the purpose of meeting federal investment~~
23 ~~requirements for funds accumulated from bonds or other~~
24 ~~obligations.~~ However, if such obligations are rated by only
25 one nationally recognized rating service, then the obligations
26 shall be rated in any one of the two highest classifications.

27 (q) Derivatives of investment instruments authorized
28 in paragraphs (a) through (m).

29 (r) Covered put and call options on investment
30 instruments authorized in this subsection for the purpose of
31

1 hedging transactions by investment managers to mitigate risk
2 or to facilitate portfolio management.

3 (s) Negotiable certificates of deposit issued by
4 financial institutions whose long-term debt is rated in one of
5 the three highest categories by at least two nationally
6 recognized rating services, the investment in which shall not
7 be prohibited by any provision of chapter 280.

8 (t) Foreign bonds denominated in United States dollars
9 and registered with the Securities and Exchange Commission for
10 sale in the United States, if the long-term obligations of
11 such issuers are rated by at least two nationally recognized
12 rating services in any one of the four highest
13 classifications. However, if such obligations are rated by
14 only one nationally recognized rating service, the obligations
15 shall be rated in any one of the two highest classifications.

16 (u) Convertible debt obligations of any corporation
17 domiciled within the United States, if the convertible debt
18 issue is rated by at least two nationally recognized rating
19 services in any one of the four highest classifications.
20 However, if such obligations are rated by only one nationally
21 recognized rating service, then the obligations shall be rated
22 in any one of the two highest classifications.

23 (v)~~(t)~~ Securities not otherwise described in this
24 subsection. However, not more than 3 percent of the funds
25 under the control of the Treasurer shall be invested in
26 securities described in this paragraph.

27
28 These investments may be in varying maturities and may be in
29 book-entry form. Investments made pursuant to this subsection
30 may be under repurchase agreement. The Treasurer is authorized
31 to hire registered investment advisers and other consultants

1 to assist in investment management and to pay fees directly
2 from investment earnings. Investment securities, proprietary
3 investment services related to contracts, performance
4 evaluation services, investment-related equipment or software
5 used directly to assist investment trading or investment
6 accounting operations including bond calculators, telerates,
7 Bloombergs, special program calculators, intercom systems, and
8 software used in accounting, communications, and trading, and
9 advisory and consulting contracts made under this section are
10 exempt from the provisions of chapter 287.

11 Section 2. Paragraph (e) of subsection (5) of section
12 766.315, Florida Statutes, is amended to read:

13 766.315 Florida Birth-Related Neurological Injury
14 Compensation Association; board of directors.--

15 (5)

16 (e) ~~Any~~ Funds held on behalf of the plan are funds of
17 the State of Florida. The association may only invest plan
18 funds in the investments and securities described in s.
19 215.47, and shall be subject to the limitations on investments
20 contained in that section ~~must be invested in interest-bearing~~
21 ~~investments by the association.~~ All income derived from such
22 investments will be credited to the plan.

23 Section 3. Subsection (3) of section 626.8473, Florida
24 Statutes, is amended to read:

25 626.8473 Escrow; trust fund.--

26 (3) All funds received by a title insurance agent to
27 be held in trust shall be immediately placed in ~~an escrow~~
28 ~~trust account in~~ a financial institution that is located
29 within this state and is a member of the Federal Deposit
30 Insurance Corporation or the National Credit Union Share
31 Insurance Fund. These funds shall be invested in an escrow

1 account in accordance with the investment requirements and
2 standards established for deposits and investments of state
3 funds in s. 18.10 insured by an agency of the federal
4 government and located within this state, where the funds
5 shall be kept until disbursement thereof is properly
6 authorized.

7 Section 4. Paragraph (c) of subsection (1) and
8 subsection (2) of section 125.31, Florida Statutes, are
9 amended to read:

10 125.31 Investment of surplus public funds;
11 regulations.--

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

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

27 (2)(a) Every security purchased under this section on
28 behalf of the governing body of a county shall be properly
29 earmarked and:
30
31

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

4 2. If in book entry form, shall be held for the credit
5 of the governing body of the county by a depository chartered
6 by ~~either~~ the Federal Government, or the state, or any other
7 state or territory of the United States, that has a branch or
8 principal place of business in this state as defined in s.
9 658.12, and shall be kept by the depository in an account
10 separate and apart from the assets of the financial
11 institution; or

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

17 (b) The board of county commissioners may also receive
18 bank trust receipts in return for investment of surplus funds
19 in securities. Any trust receipts received must enumerate the
20 various securities held together with the specific number of
21 each security held. The actual securities on which the trust
22 receipts are issued may be held by any bank depository
23 chartered by the United States Government, or the State of
24 Florida, or any other state or territory of the United States,
25 that has a branch or principal place of business in this state
26 as defined in s. 658.12 ~~their designated agents.~~

27 Section 5. Section 136.01, Florida Statutes, is
28 amended to read:

29 136.01 County depositories.--Each county depository
30 shall be a qualified public depository as defined in s. 280.02
31 for the following ~~Any bank or savings association organized~~

1 ~~under the laws of this state or of the United States and~~
2 ~~authorized to do business in this state which, as to the~~
3 ~~various funds herein referred to, conforms to the requirements~~
4 ~~of chapter 280 is authorized to accept county deposits. These~~
5 ~~funds include:~~ county funds; funds of all county officers,
6 including constitutional officers; funds of the school board;
7 and funds of the community college district board of trustees.
8 This enumeration of funds is made not by way of limitation,
9 but of illustration; and it is the intent hereof that all
10 funds of the county, the board of county commissioners or the
11 several county officers, the school board, or the community
12 college district board of trustees be included.

13 Section 6. Section 159.09, Florida Statutes, is
14 amended to read:

15 159.09 Trust agreement.--In the discretion of the
16 governing body, each or any issue of such bonds may be secured
17 by a trust agreement by and between the unit and a corporate
18 trustee, which may be any trust company or bank having the
19 powers of a trust company within or outside the state. Such
20 trust agreement may pledge or assign the revenues to be
21 received, but shall not convey or mortgage any project or any
22 part thereof. Either the ordinance or resolution providing for
23 the issuance of revenue bonds or such trust agreement may
24 contain such provisions for protecting and enforcing the
25 rights and remedies of the bondholders as may be reasonable
26 and proper and not in violation of law, including covenants
27 setting forth the duties of the unit and the governing body
28 thereof in relation to the acquisition, construction,
29 improvement, maintenance, operation, repair, and insurance of
30 the project, and the custody, safeguarding, and application of
31 all moneys. It shall be lawful for any bank or trust company

1 incorporated under the laws of this state, or any other state
2 or territory of the United States, that has a branch or
3 principal place of business in this state as defined in s.
4 658.12,to act as such depository and to furnish such
5 indemnifying bonds or to pledge such securities as may be
6 required by the governing body. Such ordinance or resolution
7 or such trust agreement may set forth the rights and remedies
8 of the bondholders and of the trustee, if any, and may
9 restrict the individual right of action by bondholders as is
10 customary in trust agreements or trust indentures securing
11 bonds or debentures of corporations. In addition to the
12 foregoing, such ordinance or resolution or such trust
13 agreement may contain such other provisions as the governing
14 body may deem reasonable and proper for the security of
15 bondholders. Except as in this part otherwise provided, the
16 governing body may provide, by ordinance or resolution or by
17 such trust agreement, for the payment of the proceeds of the
18 sale of the bonds and the revenues of the project to such
19 officer, board or depository as it may determine for the
20 custody thereof, and for the method of disbursement thereof,
21 with such safeguards and restrictions as it may determine.
22 All expenses incurred in carrying out such trust agreement may
23 be treated as a part of the cost of operation of the project
24 affected by such trust agreement.

25 Section 7. Paragraph (c) of subsection (1) and
26 subsection (2) of section 166.261, Florida Statutes, are
27 amended to read:

28 166.261 Municipalities; investments.--

29 (1) Unless otherwise authorized by law or by
30 ordinance, the governing body of each municipality shall, by
31 resolution to be adopted from time to time, invest and

1 reinvest any surplus public funds in its control or possession
2 in:

3 (c) Interest-bearing time deposits or savings accounts
4 in qualified public depositories as defined in s. 280.02 ~~banks~~
5 ~~organized under the laws of this state, in national banks~~
6 ~~organized under the laws of the United States and doing~~
7 ~~business and situated in this state, in savings and loan~~
8 ~~associations which are under state supervision, or in federal~~
9 ~~savings and loan associations located in this state and~~
10 ~~organized under federal law and federal supervision, provided~~
11 ~~that any such deposits are secured by collateral as may be~~
12 ~~prescribed by law;~~

13 (2)(a) Every security purchased under this section on
14 behalf of the governing body of a municipality shall be
15 properly earmarked and:

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

19 2. If in book entry form, shall be held for the credit
20 of the governing body of the municipality by a depository
21 chartered by ~~either~~ the Federal Government, ~~or~~ the state, or
22 any other state or territory of the United States, that has a
23 branch or principal place of business in this state as defined
24 in s. 658.12, and shall be kept by the depository in an
25 account separate and apart from the assets of the financial
26 institution; or

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

1 (b) The governing body may also receive bank trust
2 receipts in return for investment of surplus funds in
3 securities. Any trust receipts received must enumerate the
4 various securities held, together with the specific number of
5 each security held. The actual securities on which the trust
6 receipts are issued may be held by any bank depository
7 chartered by the United States Government, ~~or~~ the State of
8 Florida, or any other state or territory of the United States,
9 that has a branch or principal place of business in this state
10 as defined in s. 658.12, or their designated agents.

11 Section 8. Paragraph (c) of subsection (1) and
12 paragraph (b) of subsection (2) of section 218.345, Florida
13 Statutes, are amended to read:

14 218.345 Special districts; investments.--

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

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

29 (2)

30 (b) The governing body may also receive bank trust
31 receipts in return for investment of surplus funds in

1 securities. Any trust receipts received must enumerate the
2 various securities held, together with the specific number of
3 each security held. The actual securities on which the trust
4 receipts are issued may be held by any bank depository
5 chartered by the United States Government, ~~or~~ the State of
6 Florida, or any other state or territory of the United States,
7 that has a branch or principal place of business in this state
8 as defined in s. 658.12, or their designated agents.

9 Section 9. Paragraphs (a) and (b) of subsection (2) of
10 section 236.24, Florida Statutes, are amended to read:

11 236.24 Sources of district school fund.--

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

16 1. The Local Government Surplus Funds Trust Fund;

17 2. Negotiable direct obligations of, or obligations
18 the principal and interest of which are unconditionally
19 guaranteed by, the United States Government at the then
20 prevailing market price for such securities;

21 3. Interest-bearing time deposits or savings accounts
22 in qualified public depositories as defined in s. 280.02 ~~banks~~
23 ~~organized under the laws of this state, in national banks~~
24 ~~organized under the laws of the United States and doing~~
25 ~~business and situated in this state, in savings and loan~~
26 ~~associations which are under state supervision, or in federal~~
27 ~~savings and loan associations located in this state and~~
28 ~~organized under federal law and federal supervision, provided~~
29 ~~that any such deposits are secured by collateral as may be~~
30 ~~prescribed by law;~~

31

1 4. Obligations of the federal farm credit banks; the
2 Federal Home Loan Mortgage Corporation, including Federal Home
3 Loan Mortgage Corporation participation certificates; or the
4 Federal Home Loan Bank or its district banks or obligations
5 guaranteed by the Government National Mortgage Association;

6 5. Obligations of the Federal National Mortgage
7 Association, including Federal National Mortgage Association
8 participation certificates and mortgage pass-through
9 certificates guaranteed by the Federal National Mortgage
10 Association; or

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

22 (b)1. Securities purchased by any such school board
23 under the authority of this law shall be delivered by the
24 seller to the school board or its appointed safekeeper. The
25 safekeeper shall be a qualified bank or trust company
26 chartered to operate as such by the State of Florida, any
27 other state or territory of the United States, or the United
28 States Government, that has a branch or principal place of
29 business in this state as defined in s. 658.12. The
30 safekeeper shall issue documentation for each transaction, and
31 a monthly statement detailing all transactions for the period.

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

6 3. The school board may also receive bank trust
7 receipts in return for investment of surplus funds in
8 securities. Any trust receipts received must enumerate the
9 various securities held together with the specific number of
10 each security held. The actual securities on which the trust
11 receipts are issued may be held by any bank depository
12 chartered by the United States Government, or the State of
13 Florida, or any other state or territory of the United States,
14 that has a branch or principal place of business in this state
15 as defined in s. 658.12, or their designated agents.

16 Section 10. Paragraph (h) of subsection (4) of section
17 255.502, Florida Statutes, is amended to read:

18 255.502 Definitions; ss. 255.501-255.525.--As used in
19 this act, the following words and terms shall have the
20 following meanings unless the context otherwise requires:

21 (4) "Authorized investments" means and includes
22 without limitation any investment in:

23 (h) Savings accounts in, or certificates of deposit
24 of, qualified public depositories as defined in s. 280.02 ~~any~~
25 ~~bank, savings bank, or savings and loan association which is~~
26 ~~incorporated under the laws of this state or organized under~~
27 ~~the laws of the United States and is doing business and~~
28 ~~situated in this state, the accounts of which are insured by~~
29 ~~the Federal Government or an agency thereof, in an amount that~~
30 does not exceed 15 percent of the net worth of the
31 institution, or a lesser amount as determined by rule by the

1 State Board of Administration, provided such savings accounts
2 and certificates of deposit are secured in the manner
3 prescribed in chapter 280.

4

5 Investments in any security authorized in this subsection may
6 be under repurchase agreements or reverse repurchase
7 agreements.

8 Section 11. Subsections (11) through (19) of section
9 280.02, Florida Statutes, are renumbered as subsections (12)
10 through (20), respectively, a new subsection (11) is added to
11 said section, and present subsection (16) is renumbered and
12 amended, to read:

13 280.02 Definitions.--As used in this chapter, the
14 term:

15 (11) "Governmental unit" means the state or any
16 county, school district, community college district, special
17 district, metropolitan government, or municipality, including
18 any agency, board, bureau, commission, and institution of any
19 of such entities, or any court.

20 ~~(17)(16)~~ "Qualified public depository" means any bank,
21 savings bank, or savings association that:

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

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

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

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

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

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

7 Section 12. Section 280.03, Florida Statutes, is
8 amended to read:

9 280.03 Public deposits to be secured; prohibitions;
10 exemptions ~~exceptions~~.--

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

14 (b) Public deposits shall be made in a qualified
15 public depository unless exempted by law.~~Notwithstanding the~~
16 ~~provisions of any other law, a public deposit as defined in s.~~
17 ~~280.02(13) may be deposited in a qualified public depository~~
18 ~~as defined in s. 280.02(16).~~

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

23 ~~(3)(2)~~ The following are exempt from the requirements
24 of, and protection under, this chapter:

25 (a) Public deposits deposited in a bank or savings
26 association by a trust department or trust company which are
27 fully secured under trust business laws.~~Every public deposit~~
28 ~~held by a trust company, which trust company has legal title~~
29 ~~thereto and is subject to the applicable provisions of~~
30 ~~chapters 658 and 660 or such federal laws that are applicable~~
31 ~~to trusts and trust companies, in trust or in escrow pursuant~~

1 ~~to the provisions of any written trust indenture or escrow~~
2 ~~agreement authorized by law, unless provided otherwise in the~~
3 ~~documents or proceedings authorizing the terms of and the~~
4 ~~execution of the trust indenture or escrow agreement, and~~

5 (b) Moneys of the System Trust Fund, as defined in s.
6 121.021(36), ~~are exempt from the requirements of this chapter.~~

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

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

13 (e) Public deposits which are fully secured under
14 federal regulations.

15 Section 13. Paragraph (d) of subsection (1) of section
16 280.04, Florida Statutes, is amended to read:

17 280.04 Collateral for public deposits; general
18 provisions.--

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

28 (d) One hundred twenty-five percent of the average
29 daily balance of public deposits in excess of 20 percent of
30 the total average monthly balances of public deposits held by
31 all qualified public depositories ~~of the same type, i.e.,~~

1 ~~banks or savings associations.~~ The Treasurer shall determine
2 the total average monthly balances of public deposits held
3 during ~~based on~~ the immediately preceding 12-month period
4 ~~average~~. That 12-month average amount must be disseminated to
5 the qualified public depositories at such time and in such
6 manner as the Treasurer determines appropriate.

7 Section 14. Section 280.05, Florida Statutes, is
8 amended to read:

9 280.05 Powers and duties of the Treasurer.--In
10 fulfilling the requirements of this act, the Treasurer has the
11 power to:

12 (1)~~(6)~~ Establish criteria, based on the overall
13 financial condition of the participant and applicants, as may
14 be necessary, to protect the integrity of the public deposits
15 program, to:

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

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

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

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

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

25 (2)~~(9)~~ Appoint a six-member ~~two separate three-member~~
26 advisory committee ~~committees, one for banks and one for~~
27 ~~savings associations,~~ to review and recommend criteria to be
28 used by the Treasurer for purposes stated in subsection (1)
29 ~~(6)~~ in order to protect public deposits and the depositories
30 in the program. Each member selected to serve on the ~~an~~
31 advisory committee must be a representative of his or her

1 ~~respective~~ industry. Advisory committee members must
2 represent active qualified public depositories, not in the
3 process of withdrawing from the public deposits program, in
4 compliance with all applicable rules, regulations, and
5 reporting requirements of this chapter. Members must possess
6 knowledge, skill, and experience in one or more of the
7 following areas:

- 8 (a) Financial analysis;
9 (b) Trend analysis;
10 (c) Accounting;
11 (d) Banking;
12 (e) Risk management; or
13 (f) Investment management.

14

15 Members' terms shall be for 4 years, ~~except that in making the~~
16 ~~initial appointments, the Treasurer shall appoint from each~~
17 ~~group one member to serve 2 years, one member to serve 3~~
18 ~~years, and one member to serve 4 years.~~ Any person appointed
19 to fill a vacancy on the advisory committee ~~committees~~ may
20 serve only for the remainder of the unexpired term. Any
21 member is eligible for reappointment and shall serve until a
22 successor qualifies. ~~The Treasurer shall appoint a member of~~
23 ~~each advisory committee to serve as its initial chair.~~ The
24 ~~Thereafter, each~~ advisory committee shall elect a chair and
25 vice chair and shall also designate a secretary who need not
26 be a member of the advisory committee. The ~~Each~~ secretary
27 shall keep a record of the proceedings of the ~~his or her~~
28 advisory committee and shall be the custodian of all printed
29 materials filed with or by the advisory committee.
30 Notwithstanding the existence of vacancies on the advisory
31 committee, a majority of the members constitutes a quorum. The

1 ~~Neither~~ advisory committee shall not ~~may~~ take official action
2 in the absence of a quorum. Each member may name a designee
3 to serve on the advisory committee on behalf of the member.
4 However, any designee so named must meet the qualifications
5 required of the selected member and be approved by the
6 Treasurer. The advisory committee ~~committees~~ shall convene as
7 needed.

8 (3)~~(10)~~ Establish goals and objectives and provide
9 other data as may be necessary to assist the advisory
10 committee ~~committees~~ established under subsection(2)~~(9)~~ in
11 developing standards for the program.

12 (4)~~(11)~~ Review, implement, monitor, evaluate, and
13 modify, as needed, all or any part of the standards and
14 policies recommended by an advisory committee.

15 (5)~~(16)~~ Perform financial analysis of any qualified
16 public depository as needed.

17 (6)~~(1)~~ Require such collateral, or increase the
18 collateral-pledging level, of any qualified public depository
19 as may be necessary to administer the provisions of this
20 chapter and to protect the integrity of the public deposits
21 program.

22 (7)~~(18)~~ Establish a minimum amount of required
23 collateral as the Treasurer deems necessary to provide for the
24 contingent liability pool ~~pools~~.

25 (8)~~(2)~~ Decline to accept, or reduce the reported value
26 of, collateral as circumstances may require in order to ensure
27 the pledging of sufficient marketable collateral to meet the
28 purposes of this chapter.

29 (9)~~(15)~~ Maintain perpetual inventory of pledged
30 collateral and perform monthly market valuations and quality
31 ratings.

1 ~~(10)(13)~~ Monitor and confirm, as often as deemed
2 necessary by the Treasurer, the pledged collateral held by
3 third party custodians.

4 ~~(11)(17)~~ Perfect interest in pledged collateral by
5 having pledged securities moved into an account established in
6 the Treasurer's name. This action shall be taken at the
7 discretion of the Treasurer.

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

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

15 ~~(14)(7) Sell pledged securities, or move pledged~~
16 ~~securities to an account established in the Treasurer's name,~~
17 for the purpose of paying losses to public depositors not
18 covered by deposit insurance ~~or to perfect the Treasurer's~~
19 ~~interest in the pledged securities.~~

20 ~~(15)(8)~~ Transfer funds directly from the custodian to
21 public depositors or the receiver in order to facilitate
22 prompt payment of claims.

23 ~~(16)(14)~~ Require the filing of ~~and inspect, review, or~~
24 ~~analyze~~ the following reports which the Treasurer shall
25 process as provided:

26 (a) Qualified public depository monthly reports and
27 schedules. The Treasurer shall review the reports of each
28 qualified public depository for material changes in capital
29 accounts or changes in name, address, or type of institution,
30 record the average daily balances of public deposits held, and
31

1 monitor the collateral-pledging levels and required
2 collateral.

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

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

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

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

20 ~~(17)(4)~~ Verify the reports of any qualified public
21 depository relating to public deposits it holds when necessary
22 to protect the integrity of the public deposits program.

23 ~~(18)(12)~~ Confirm public deposits, to the extent
24 possible under current law, when needed.

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

30 ~~(20)(3)~~ Suspend or disqualify or disqualify after
31 suspension any qualified public depository that has violated

1 any of the provisions of this chapter or of rules adopted
2 hereunder.

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

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

17 (c) If the Treasurer has reason to believe that any
18 qualified public depository or any other financial institution
19 holding public deposits is or has been violating any of the
20 provisions of this chapter or of rules adopted hereunder, he
21 or she may issue to the qualified public depository or other
22 financial institution an order to cease and desist from the
23 violation or to correct the condition giving rise to or
24 resulting from the violation. If any qualified public
25 depository or other financial institution violates a
26 cease-and-desist or corrective order, the Treasurer may impose
27 an administrative penalty upon the qualified public depository
28 or other financial institution as provided in s. 280.054 or s.
29 280.055. In addition to the administrative penalty, the
30 Treasurer may suspend or disqualify any qualified public

31

1 depository for violation of any order issued pursuant to this
2 paragraph.

3 ~~(5) Allow an exception to public deposit limitations~~
4 ~~of any qualified public depository that has contracted with~~
5 ~~the Treasurer to clear the receipts of the State of Florida to~~
6 ~~the extent, and only to the extent, that clearing the receipts~~
7 ~~would violate this chapter.~~

8 Section 15. Section 280.07, Florida Statutes, is
9 amended to read:

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

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

24 280.08 Procedure for payment of losses.--When the
25 Treasurer determines that a default or insolvency has
26 occurred, he or she shall provide notice as required in s.
27 280.085(1) and implement the following procedures:

28 (2) The potential loss to public depositors shall be
29 calculated by compiling claims received from such depositors.
30 The Treasurer shall validate claims on public deposit accounts
31 which meet the requirements of s. 280.17 and are confirmed as

1 provided in subsection (1).~~Such claims shall be validated by~~
2 ~~the Treasurer.~~

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

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

28 Section 17. Section 280.16, Florida Statutes, is
29 amended to read:

30 280.16 Requirements ~~Reports~~ of qualified public
31 depositories; confidentiality.--

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

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

5 1. Identify the account as a "Florida public deposit"
6 on the deposit account record with the name of the public
7 depositor or provide a unique code for the account for such
8 designation.

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

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

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

28 (b)(1) Within 15 days after the end of each calendar
29 month, or when requested by the Treasurer, ~~each qualified~~
30 ~~public depository shall~~ submit to the Treasurer a written
31 report, under oath, indicating the average daily balance of

1 all public deposits held by it during the reported month,
2 required collateral, a detailed schedule of all securities
3 pledged as collateral, selected financial information, and any
4 other information that the Treasurer determines necessary to
5 administer this chapter.

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

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

28 ~~(e)(3)~~ In addition to the reports required in
29 subsections (1) and (2), each qualified public depository
30 shall Submit to the Treasurer not later than within 10 days
31

1 ~~after~~ the date ~~it is~~ required to be filed with the federal
2 agency:

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

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

11 (2)~~(4)~~ ~~In addition to the requirements of subsection~~
12 ~~(1)~~, The following forms must be made under oath:

13 (a) The agreement of contingent liability.

14 (b) The public depository pledge agreement.

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

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

1 Section 18. Section 280.17, Florida Statutes, is
2 amended to read:

3 280.17 Requirements for public depositors; notice to
4 public depositors and governmental units; loss of
5 protection.--In addition to any other requirement specified in
6 this chapter, public depositors shall ~~must~~ comply with the
7 following ~~requirements~~:

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

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

16 (2)(1) Beginning July 1, 1998, each public depositor
17 shall take the following actions for each public deposit
18 account:~~must~~

19 (a) Ensure that the name of the public depositor is on
20 the account or certificate or other form provided to the
21 public depositor by the qualified public depository in a
22 manner sufficient to identify that the account is a Florida
23 public deposit.

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

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

5 (3) Each public depositor shall review the Treasurer's
6 published list of qualified public depositories and ascertain
7 the status of depositories used. A public depositor shall,
8 for status changes of depositories:

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

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

18 (4)(2) Whenever public deposits are ~~Each public~~
19 ~~depositor who has assets on deposit~~ in a qualified public
20 depository that has been declared to be ~~is~~ in default or ~~is~~
21 insolvent, each public depositor shall: ~~must~~

22 (a) Notify the Treasurer ~~of that fact~~ immediately by
23 telecommunication after receiving notice of the default or
24 insolvency from the receiver of the depository with subsequent
25 written confirmation and a copy of the notice.

26 (b) Submit to the Treasurer for each public deposit,
27 within 30 days after the date of official notification from
28 the Treasurer, the following:

29 1. A claim form and agreement, as prescribed by the
30 Treasurer, executed under oath, accompanied by proof of
31

1 authority to execute the form on behalf of the public
2 depositor.

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

5 3. Evidence of the insurance afforded the deposit
6 pursuant to the Federal Deposit Insurance Act.

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

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

25 (a) The of its official name, mailing address, and
26 federal employer identification number of the public
27 depositor, and account balances at the close of business on
28 September 30.

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

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

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

13 (7)(4) Notices relating to the public deposits program
14 shall be mailed to public depositors and governmental units
15 from a list developed annually from:

16 (a) Public depositors that filed an annual report
17 under subsection (6).

18 (b) Governmental units existing on September 30 that
19 had no public deposits but filed an annual report stating "no
20 public deposits".

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

27 (8)(5) If a public depositor does not comply with this
28 section on each public deposit account, the protection from
29 loss provided in s. 280.18 is not effective as to that public
30 deposit account depositor.

31

1 Section 19. Section 280.18, Florida Statutes, is
2 amended to read:

3 280.18 Protection ~~Liability~~ of public depositors;
4 liability of ~~and~~ the state.--

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

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

22 Section 20. Subsection (2) of section 331.309, Florida
23 Statutes, is amended to read:

24 331.309 Treasurer; depositories; fiscal agent.--

25 (2) The board is authorized to select as depositories
26 in which the funds of the board and of the authority shall be
27 deposited any qualified public depository as defined in s.
28 280.02 ~~banking corporation or other financial institution~~
29 ~~organized under the laws of the state, or under the laws of~~
30 ~~the United States and doing business in the state, upon such~~
31 terms and conditions as to the payment of interest by such

1 depository upon the funds so deposited as the board may deem
2 just and reasonable. The funds of the authority may be kept in
3 or removed from the State Treasury upon written notification
4 from the chair of the board to the state Comptroller.

5 Section 21. This act shall take effect July 1 of the
6 year in which enacted.

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