

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Insurance offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

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

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

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

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

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1 average daily balance.

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

11 ~~(4)~~ "Book-entry form" means that securities are not
12 represented by a paper certificate but represented by an
13 account entry on the records of a depository trust clearing
14 system or, in the case of United States Government securities,
15 a Federal Reserve Bank.

16 ~~(5)(3)~~ "Capital account" means total equity capital,
17 as defined on the balance-sheet portion of the Consolidated
18 Reports of Condition and Income (call report) or the Thrift
19 Financial Report, less intangible assets, as submitted to the
20 regulatory banking authority.

21 ~~(6)(4)~~ "Collateral-pledging level," for qualified
22 public depositories, means the percentage of collateral
23 required to be pledged as provided in s. 280.04 by a financial
24 institution.

25 ~~(7)(5)~~ "Current month" means the month immediately
26 following the month for which the monthly report is due from
27 qualified public depositories.

28 ~~(8)(6)~~ "Custodian" means the Treasurer or any bank,
29 savings association, or trust company that:

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

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

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

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

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

18 (10)~~(8)~~ "Effective date of notice of withdrawal or
19 order of discontinuance" pursuant to s. 280.11(3) means that
20 date which is set out as such in any notice of withdrawal or
21 order of discontinuance from the Treasurer.

22 (11)~~(9)~~ "Eligible collateral" means securities as
23 designated in s. 280.13.

24 (12)~~(10)~~ "Financial institution" means, including, but
25 not limited to, an association, bank, brokerage firm, credit
26 union, industrial savings bank, savings and loan association,
27 trust company, or other type of financial institution
28 organized under the laws of this state or any other state of
29 the United States and doing business in this state or any
30 other state, in the general nature of the business conducted
31 by banks and savings associations.

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1 (13)~~(11)~~ "Governmental unit" means the state or any
2 county, school district, community college district, special
3 district, metropolitan government, or municipality, including
4 any agency, board, bureau, commission, and institution of any
5 of such entities, or any court.

6 (14)~~(12)~~ "Loss to public depositors" means loss of all
7 principal and all interest or other earnings on the principal
8 accrued or accruing as of the date the qualified public
9 depository was declared in default or insolvent.

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

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

22 (17) "Pledgor" means the qualified public depository
23 and, if one is used, operating subsidiary.

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

27 (19)~~(13)~~ "Previous month" means the month or months
28 immediately preceding the month for which a monthly report is
29 due from qualified public depositories.

30 (20)~~(14)~~ "Public deposit" means the moneys of the
31 state or of any county, school district, community college

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1 district, special district, metropolitan government, or
2 municipality, including agencies, boards, bureaus,
3 commissions, and institutions of any of the foregoing, or of
4 any court, and includes the moneys of all county officers,
5 including constitutional officers, that are placed on deposit
6 in a bank, savings bank, or savings association and for which
7 the bank, savings bank, or savings association is required to
8 maintain reserves. This includes, including, but is not
9 limited to, time deposit accounts, demand deposit accounts,
10 and nonnegotiable certificates of deposit. ~~All certificates~~
11 ~~of deposit, whether negotiable or nonnegotiable, shall be~~
12 ~~considered deposits and shall be subject to the provisions of~~
13 ~~this chapter. Moneys in deposit notes and in other nondeposit~~
14 accounts such as used in repurchase or reverse repurchase
15 operations are investments and are not public deposits as
16 defined in this subsection. Securities, mutual funds, and
17 similar types of investments are not considered public
18 deposits and shall not be subject to the provisions of this
19 chapter.

20 (21)(15) "Public depositor" means the Treasurer or
21 other chief financial officer or designee responsible for
22 handling public deposits.

23 (22)(16) "Public deposits program" means the
24 administration of this chapter by or on behalf of the
25 Treasurer.

26 (23)(17) "Qualified public depository" means any bank,
27 savings bank, or savings association that:

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

31 (b) Has its principal place of business in this state

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1 or has a branch office in this state which is authorized under
2 the laws of this state or of the United States to receive
3 deposits in this state.

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

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

10 (e) Meets all the requirements of this chapter.

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

13 ~~(24)(18)~~ "Reported month" means the month for which a
14 monthly report is due from qualified public depositories.

15 ~~(25)(19)~~ "Required collateral" of a qualified public
16 depository means eligible collateral having a market value
17 equal to or in excess of the amount required to be pledged
18 pursuant to s. 280.04 as computed and reported monthly or when
19 requested by the Treasurer.

20 ~~(26)(20)~~ "Treasurer" means the Treasurer of the State
21 of Florida.

22 (27) "Treasurer's custody" is a collateral arrangement
23 governed by a contract between a designated Treasurer's
24 custodian and the Treasurer. This arrangement requires
25 collateral to be in the Treasurer's name in order to perfect
26 the security interest.

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

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

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

5 280.04 Collateral for public deposits; general
6 provisions.--

7 (1) The Treasurer shall determine the collateral
8 requirements and collateral pledging level for each qualified
9 public depository following procedures established by rule.
10 These procedures shall include numerical parameters for
11 25-percent, 50-percent, 125-percent, and 200-percent pledge
12 levels based on nationally recognized financial rating
13 services information and established financial performance
14 guidelines.

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

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

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

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

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

31 (c) One hundred twenty-five percent of the average

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1 daily balance of public deposits if the qualified public
2 depository:
3 1. Has been established for less than 3 years;
4 2. Has experienced material decreases in its capital
5 accounts; or
6 3. Has an overall financial condition that is
7 materially deteriorating.
8 (d) Two hundred percent of an established maximum
9 amount of public deposits that has been mutually agreed upon
10 by and between the Treasurer and the qualified public
11 depository.
12 (e) Minimum required collateral of \$100,000.
13 (3) Additional collateral is required within 48 hours
14 if public deposits are accepted that would increase the
15 qualified public depository's average daily balance for the
16 current month by 25 percent over the average daily balance of
17 the previously reported month.
18 (4) Additional collateral of 20 percent of required
19 collateral is necessary if a valuation date other than the
20 close of business as described in subsection (5) has been
21 approved for the qualified public depository and the required
22 collateral is found to be insufficient based on the
23 Treasurer's valuation.
24 (5) Each qualified public depository shall value its
25 collateral in the following manner; it must:
26 (a) Use a nationally recognized source.
27 (b) Use market price, quality ratings, and pay-down
28 factors as of the close of business on the last banking day in
29 the reported month, or as of a date approved by the Treasurer.
30 (c) Report any material decline in value that occurs
31 before the date of mailing the monthly report to the

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1 Treasurer.

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

4 280.041 Collateral arrangements; agreements,
5 provisions, and triggering events.--

6 (1) With the approval of the Treasurer, a qualified
7 public depository or operating subsidiary, as pledgor, may
8 deposit eligible collateral with a custodian. Except as
9 provided in subsection (2), the following are necessary for
10 the Treasurer's approval:

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

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

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

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

28 4. The pledgor shall agree that the Treasurer may,
29 without consent by the pledgor, require the custodian to
30 comply with and perform any and all requests and orders
31 directly from the Treasurer. These include, but are not

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1 limited to, liquidating all collateral and submitting the
2 proceeds directly to the Treasurer in the name of the
3 Treasurer only or transferring all collateral into an account
4 designated solely by the Treasurer. The Treasurer shall give
5 the pledgor notice within one (1) business day of this action.
6 Such action shall be taken for purposes of this section.

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

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

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

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

28 c. A transfer of collateral between accounts at a
29 custodian requires the Treasurer's prior approval. The
30 collateral shall be released subject to redeposit in the new
31 account with a pledge to the Treasurer intact.

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1 d. A transfer of collateral from a custodian to
2 another custodian requires the Treasurer's prior approval and
3 a valid collateral agreement with the new custodian. The
4 collateral shall be released subject to redeposit at the new
5 custodian with a pledge to the Treasurer intact.

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

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

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

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

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

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

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

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

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

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

16 12. The pledgor shall agree that any information,
17 form, or report electronically transmitted to the Treasurer
18 shall have the same enforceability as a signed writing.

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

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

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

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

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1 1. The custodian shall have no responsibility to
2 ascertain whether the pledged securities are at least equal to
3 the amount of required collateral or whether the pledged
4 securities are eligible collateral.

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

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

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

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

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

30 a. A deposit transaction of eligible collateral may be
31 made without prior approval from the Treasurer unless the

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1 custodian has received notice from the Treasurer requiring the
2 Treasurer's prior approval.

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

10 c. A transfer of collateral between accounts at a
11 custodian requires the Treasurer's prior approval. The
12 collateral shall be released subject to redeposit in the new
13 account with a pledge to the Treasurer intact. Confirmation
14 from the custodian to the Treasurer must be received within 5
15 business days after the redeposit.

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

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

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

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

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

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

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

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

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

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

26 12. The custodian shall agree that any information,
27 form, or report electronically transmitted to the Treasurer
28 shall have the same enforceability as a signed writing.

29 13. The Treasurer shall have the right to examine
30 definitive pledged collateral and records of book-entry
31 securities during the regular business hours of the custodian

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1 without cost to the Treasurer.

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

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

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

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

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

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

22 1. Meet the definition of custodian.

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

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

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

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

30 (e) The qualified public depository shall be
31 responsible for all costs necessary to the functioning of the

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1 contract or associated with the confirmation of securities in
2 the name of the Treasurer and shall acknowledge that these
3 costs shall not be a charge against the Treasurer and may be
4 deducted from the collateral or income earned if unpaid.

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

13 (a) A determination by the Treasurer that an immediate
14 danger to the public health, safety, or welfare exists.

15 (b) Failure of the qualified public depository to have
16 adequate procedures and practices for the accurate
17 identification, classification, reporting, and
18 collateralization of public deposits.

19 (c) Failure of the custodian to provide or allow
20 inspection and verification of documents, reports, records, or
21 other information dealing with the pledged collateral or
22 financial information.

23 (d) Failure of the qualified public depository or its
24 operating subsidiary to provide or allow inspection and
25 verification of documents, reports, records, or other
26 information dealing with Florida public deposits, pledged
27 collateral, or financial information.

28 (e) Failure of the custodian to hold income and
29 principal payments made on securities held as collateral or to
30 deposit or transfer such payments pursuant to the Treasurer's
31 instructions.

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- 1 (f) Default or insolvency by the qualified public
2 depository.
- 3 (g) Failure of the qualified public depository to pay
4 an assessment.
- 5 (h) Failure of the qualified public depository to pay
6 an administrative penalty.
- 7 (i) Failure of the qualified public depository to meet
8 financial condition standards.
- 9 (j) Charge by the qualified public depository of a
10 withdrawal penalty to a public depositor when the qualified
11 public depository is suspended, disqualified, or withdrawn
12 from the public deposits program.
- 13 (k) Failure of the qualified public depository to
14 provide, as required, the public depositor with annual
15 confirmation information on all open Florida public deposit
16 accounts.
- 17 (l) Pledge by the qualified public depository of
18 insufficient or unacceptable collateral to cover public
19 deposits.
- 20 (m) Release of pledged collateral, other than a proper
21 substitution, without the prior approval of the Treasurer.
- 22 (n) Violation by the qualified public depository,
23 custodian, operating subsidiary, or agent of any provision of
24 the act, if the Treasurer determines that such violation may
25 be remedied by a move of collateral.
- 26 (o) Failure of the qualified public depository,
27 custodian, operating subsidiary, or agent to timely cooperate
28 in resolving problems by the date established in written
29 communication from the Treasurer.
- 30 (p) Failure of the custodian to provide sufficient
31 confirmation information.

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

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

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

11 280.13 Collateral eligible for pledge by banks and
12 savings associations.--

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

15 (c) Obligations of the following federal agencies:

- 16 1. Farm credit banks.
- 17 2. Federal land banks.
- 18 3. The Federal Home Loan Bank and its district banks,
19 ~~including time deposits.~~
- 20 4. Federal intermediate credit banks.
- 21 5. The Federal Home Loan Mortgage Corporation.
- 22 6. The Federal National Mortgage Association.
- 23 7. Obligations guaranteed by the Government National
24 Mortgage Association.

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

30 (a) Securities of, or other interests in, any open-end
31 management investment company registered under the Investment

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1 Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended
2 from time to time, provided the portfolio of such investment
3 company is limited to direct obligations of the United States
4 Government and to repurchase agreements fully collateralized
5 by such direct obligations of the United States Government and
6 provided such investment company takes delivery of such
7 collateral either directly or through an authorized custodian.

8 (b) Collateralized Mortgage Obligations.

9 (c) Real Estate Mortgage Investment Conduits.

10 ~~(d) Certificates of deposit.~~

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

14 625.52 Securities eligible for deposit.--

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

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

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

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

Amendment No. 1 (for drafter's use only)

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

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

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

13 1. Exclusive authorized signature authority for the
14 State Treasurer.

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

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

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

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

31 6.5. Such other conditions as the department requires

Amendment No. 1 (for drafter's use only)

1 ~~may require.~~

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

4 660.27 Deposit of securities with Treasurer.--

5 (1) Before transacting any trust business in this
6 state, every trust company and every state or national bank or
7 state or federal association having trust powers shall give
8 satisfactory security by the deposit or pledge of security of
9 the kind or type provided in this section having at all times
10 a market value in an amount equal to 25 percent of the issued
11 and outstanding capital stock of such trust company, bank, or
12 state or federal stock association or, in the case of a
13 federal mutual association, an equivalent amount determined by
14 the department, or the sum of \$25,000, whichever is greater.
15 However, the value of the security deposited or pledged
16 pursuant to the provisions of this section ~~by a state trust~~
17 ~~company, a state bank or state association having trust~~
18 ~~powers, or a national bank or federal association having its~~
19 ~~principal office in this state and having trust powers shall~~
20 not be required to exceed \$500,000. Any notes, mortgages,
21 bonds, or other securities, other than shares of stock,
22 eligible for investment by a state bank, state association, or
23 state trust company, or eligible for investment by
24 fiduciaries, shall be accepted as satisfactory security for
25 the purposes of this section.

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

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

Amendment No. 1 (for drafter's use only)

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

4 (3)(2) The Treasurer shall determine whether the
5 security deposited or pledged pursuant to this section, or
6 tendered for such deposit or pledge, is of the kind or type
7 permitted, and has a market value in the amount required, by
8 subsection (1). The security required by this section shall
9 be deposited with or to the credit of, or pledged to, the
10 Treasurer for the account of each state or national bank,
11 state or federal association, or trust company depositing or
12 pledging the same and shall be used, if at all, by the
13 liquidator of such bank, association, or trust company with
14 first priority being given to claims on account of the trust
15 business or fiduciary functions of such bank, association, or
16 trust company or, prior to liquidation, for the payment of any
17 judgment or decree which may be rendered against such bank,
18 association, or trust company in connection with its trust
19 business or its fiduciary functions if such judgment or decree
20 is not otherwise paid by, or out of other assets of, such
21 bank, association, or trust company.

22 (4)(3) Any security of any kind which has been
23 deposited or pledged as provided in this section may at any
24 time, by or upon the direction of such bank, association, or
25 trust company which deposited or pledged such security, be
26 withdrawn and released from such pledge provided that
27 simultaneously therewith satisfactory security as provided in
28 this section, in such amount, if any, as may be necessary in
29 order to comply with the requirements of this section, is
30 substituted for the security so withdrawn and released. ~~With~~
31 ~~respect to the deposit or pledge of securities as provided in~~

Amendment No. 1 (for drafter's use only)

1 ~~this section, the Treasurer may accept a safekeeping receipt,~~
2 ~~in a form he or she prescribes, issued by another bank, trust~~
3 ~~company, or savings association located within or without the~~
4 ~~state.~~

5 (5) With the approval of the Treasurer, each trust
6 company, bank, or association as pledgor, may deposit eligible
7 collateral with a custodian. This custodian shall not be
8 affiliated or related to the trust company, bank, or
9 association. Collateral must be deposited using the
10 collateral agreements and provisions as set forth in s.
11 280.041(1) and (2). The Treasurer shall adopt rules to
12 identify forms and establish procedures for collateral
13 agreements and transactions, establish confirmation
14 requirements, and define terms used in the rule.

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

16
17

18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 On page 1, lines 22 and 23
21 remove from the title of the bill: all of said lines

22

23 and insert in lieu thereof:

24 Treasurer; authorizing the Treasurer to adopt
25 rules with respect to

26
27
28
29
30
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