

By Senator Rossin

35-886-00

1                                   A bill to be entitled  
2           An act relating to public deposits; amending s.  
3           280.02, F.S.; defining the terms "affiliate,"  
4           "book-entry form," "operating subsidiary,"  
5           "pledged collateral," "pledgor," "pool figure,"  
6           "Treasurer's custody," and "triggering events"  
7           and redefining the terms "collateral-pledging  
8           level" and "public deposit"; amending s.  
9           280.04, F.S.; revising general provisions  
10          relating to collateral for public deposits;  
11          creating s. 280.041, F.S.; prescribing  
12          requirements for collateral arrangements;  
13          providing duties and powers of the Treasurer;  
14          prescribing duties and powers of depositories;  
15          amending s. 280.13, F.S.; revising the list of  
16          securities eligible to be pledged as  
17          collateral; amending s. 625.52, F.S.; revising  
18          requirements for certificates of deposit to  
19          constitute securities eligible for deposit;  
20          amending s. 660.27, F.S.; providing  
21          requirements for deposit of securities with the  
22          Department of Banking and Finance; authorizing  
23          the department to adopt rules with respect to  
24          the deposit of securities; providing an  
25          effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

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

31

1           280.02 Definitions.--As used in this chapter, the  
2 term:

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

7           ~~(2)(1)~~ "Average daily balance" means the average daily  
8 balance of public deposits held during the reported month. The  
9 average daily balance must be determined by totaling, by  
10 account, the daily balances held by the depositor and then  
11 dividing the total by the number of calendar days in the  
12 month. Deposit insurance is then deducted from each account  
13 balance and the resulting amounts are totaled to obtain the  
14 average daily balance.

15           ~~(3)(2)~~ "Average monthly balance" means the average  
16 monthly balance of public deposits held, before deducting  
17 deposit insurance, by the depository during any 12 calendar  
18 months. The average monthly balance of the previous 12  
19 calendar months must be determined by adding the average daily  
20 balance before deducting deposit insurance for the reported  
21 month and the average daily balances before deducting deposit  
22 insurance for the 11 months preceding that month and dividing  
23 the total by 12.

24           (4) "Book-entry form" means that securities are not  
25 represented by a paper certificate but represented by an  
26 account entry on the records of a depository trust clearing  
27 system or, in the case of U.S. Government securities, a  
28 Federal Reserve Bank.

29           ~~(5)(3)~~ "Capital account" means total equity capital,  
30 as defined on the balance-sheet portion of the Consolidated  
31 Reports of Condition and Income (call report) or the Thrift

1 Financial Report, less intangible assets, as submitted to the  
2 regulatory banking authority.

3 (6)~~(4)~~ "Collateral-pledging level," for qualified  
4 public depositories, means the percentage of collateral  
5 required to be pledged as provided in s. 280.04 by a financial  
6 institution.

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

10 (8)~~(6)~~ "Custodian" means the Treasurer or any bank,  
11 savings association, or trust company that:

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

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

16 (c) Agrees to be subject to the jurisdiction of the  
17 courts of this state, or of courts of the United States which  
18 are located within this state, for the purpose of any  
19 litigation arising out of this chapter; and

20 (d) Has been approved by the Treasurer to act as a  
21 custodian.

22 (9)~~(7)~~ "Default or insolvency" includes, without  
23 limitation, the failure or refusal of a qualified public  
24 depository to pay any check or warrant drawn upon sufficient  
25 and collected funds by any public depositor or to return any  
26 deposit on demand or at maturity together with interest as  
27 agreed; the issuance of an order by any supervisory authority  
28 restraining such depository from making payments of deposit  
29 liabilities; or the appointment of a receiver for such  
30 depository.

31

1           ~~(10)(8)~~ "Effective date of notice of withdrawal or  
2 order of discontinuance" pursuant to s. 280.11(3) means that  
3 date which is set out as such in any notice of withdrawal or  
4 order of discontinuance from the Treasurer.

5           ~~(11)(9)~~ "Eligible collateral" means securities as  
6 designated in s. 280.13.

7           ~~(12)(10)~~ "Financial institution" means, including, but  
8 not limited to, an association, bank, brokerage firm, credit  
9 union, industrial savings bank, savings and loan association,  
10 trust company, or other type of financial institution  
11 organized under the laws of this state or any other state of  
12 the United States and doing business in this state or any  
13 other state, in the general nature of the business conducted  
14 by banks and savings associations.

15           ~~(13)(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           ~~(14)(12)~~ "Loss to public depositors" means loss of all  
21 principal and all interest or other earnings on the principal  
22 accrued or accruing as of the date the qualified public  
23 depository was declared in default or insolvent.

24           (15) "Operating subsidiary" means the qualified public  
25 depository's 100-percent owned corporation that has ownership  
26 of pledged collateral. The operating subsidiary may have no  
27 powers beyond those that its parent qualified public  
28 depository may itself exercise. The use of an operating  
29 subsidiary is at the discretion of the qualified public  
30 depository and must meet the Treasurer's requirements.

31

1           (16) "Pledged collateral" means securities or cash  
2 held separately and distinctly by an eligible custodian for  
3 the benefit of the Treasurer to be used as security for  
4 Florida public deposits. This includes maturity and call  
5 proceeds.

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

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

11           (19)~~(13)~~ "Previous month" means the month or months  
12 immediately preceding the month for which a monthly report is  
13 due from qualified public depositories.

14           (20)~~(14)~~ "Public deposit" means the moneys of the  
15 state or of any county, school district, community college  
16 district, special district, metropolitan government, or  
17 municipality, including agencies, boards, bureaus,  
18 commissions, and institutions of any of the foregoing, or of  
19 any court, and includes the moneys of all county officers,  
20 including constitutional officers, that are placed on deposit  
21 in a bank, savings bank, or savings association and for which  
22 the bank, savings bank, or savings association is required to  
23 maintain reserves. This includes, including, but is not  
24 limited to, time deposit accounts, demand deposit accounts,  
25 and nonnegotiable certificates of deposit. All certificates  
26 of deposit, whether negotiable or nonnegotiable, shall be  
27 considered deposits and shall be subject to the provisions of  
28 this chapter. Moneys in deposit notes and in other nondeposit  
29 accounts such as used in repurchase or reverse repurchase  
30 operations are investments and are not public deposits as  
31 defined in this subsection. Securities, mutual funds, and

1 similar types of investments are not considered public  
2 deposits and shall not be subject to the provisions of this  
3 chapter.

4 (21)~~(15)~~ "Public depositor" means the Treasurer or  
5 other chief financial officer or designee responsible for  
6 handling public deposits.

7 (22)~~(16)~~ "Public deposits program" means the  
8 administration of this chapter by or on behalf of the  
9 Treasurer.

10 (23)~~(17)~~ "Qualified public depository" means any bank,  
11 savings bank, or savings association that:

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

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

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

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

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

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

28 (24)~~(18)~~ "Reported month" means the month for which a  
29 monthly report is due from qualified public depositories.

30 (25)~~(19)~~ "Required collateral" of a qualified public  
31 depository means eligible collateral having a market value

1 equal to or in excess of the amount required to be pledged  
2 pursuant to s. 280.04 as computed and reported monthly or when  
3 requested by the Treasurer.

4 (26)~~(20)~~ "Treasurer" means the Treasurer of the State  
5 of Florida.

6 (27) "Treasurer's custody" is a collateral arrangement  
7 governed by a contract between a designated Treasurer's  
8 custodian and the Treasurer. This arrangement requires  
9 collateral to be in the Treasurer's name in order to perfect  
10 the security interest.

11 (28) "Triggering events" are events set out in  
12 subsection 280.041(4) which give the Treasurer, as pledgee,  
13 the right to instruct the custodian to transfer securities  
14 pledged, interest payments, and other proceeds of pledged  
15 collateral not previously credited to the pledgor.

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

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

20 280.04 Collateral for public deposits; general  
21 provisions.--

22 (1) The Treasurer shall determine the collateral  
23 requirements and collateral pledging level for each qualified  
24 public depository following procedures established by rule.  
25 These procedures shall include numerical parameters for  
26 25-percent, 50-percent, 125-percent, and 200-percent pledge  
27 levels based on nationally recognized financial rating  
28 services information and established financial performance  
29 guidelines.

30 (2) A qualified public depository may not accept or  
31 retain any public deposit which is required to be secured

1 unless it has deposited with the Treasurer eligible collateral  
2 at least equal to the greater of:

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

7 1. One hundred twenty-five percent of the average  
8 daily balance of public deposits in excess of capital  
9 accounts; or

10 2. One hundred twenty-five percent of the average  
11 daily balance of public accounts in excess of 20 percent of  
12 the pool figure.

13 (b) Twenty-five percent of the average monthly balance  
14 of public deposits.

15 (c) One hundred twenty-five percent of the average  
16 daily balance of public deposits if the qualified public  
17 depository:

18 1. Has been established for less than 3 years;

19 2. Has experienced material decreases in its capital  
20 accounts; or

21 3. Has an overall financial condition that is  
22 materially deteriorating.

23 (d) Two hundred percent of an established maximum  
24 amount of public deposits that has been mutually agreed upon  
25 by and between the Treasurer and the qualified public  
26 depository.

27 (e) Minimum required collateral of \$100,000.

28 (3) Additional collateral is required within 48 hours  
29 if public deposits are accepted that would increase the  
30 qualified public depository's average daily balance for the  
31



1 current month by 25 percent over the average daily balance of  
2 the previously reported month.

3 (4) Additional collateral of 20 percent of required  
4 collateral is necessary if a valuation date other than the  
5 close of business as described below has been approved for the  
6 qualified public depository and the required collateral is  
7 found to be insufficient based on the Treasurer's valuation.

8 (5) Each qualified public depository shall value its  
9 collateral in the following manner; it must:

10 (a) Use a nationally recognized source.

11 (b) Use market price, quality ratings, and pay-down  
12 factors as of the close of business on the last banking day in  
13 the reported month, or as of a date approved by the Treasurer.

14 (c) Report any material decline in value that occurs  
15 before the date of mailing the monthly report to the  
16 Treasurer.

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

19 280.041 Collateral arrangements; agreements,  
20 provisions, and triggering events.--

21 (1) With the approval of the Treasurer, a qualified  
22 public depository or operating subsidiary, as pledgor, may  
23 deposit eligible collateral with a custodian. Except in the  
24 case of using a Federal Reserved Bank as custodian, which may  
25 require other collateral agreement provisions, the following  
26 are necessary for the Treasurer's approval:

27 (a) A completed collateral agreement in a form  
28 prescribed by the Treasurer in which the pledgor agrees to the  
29 following provisions:

30 1. The pledgor shall own the pledged collateral. The  
31 pledged collateral shall meet the definition of eligible

1 collateral and shall be at least equal to the amount of  
2 required collateral.

3 2. The pledgor shall grant to the Treasurer an  
4 interest in pledged collateral to secure Florida public  
5 deposits. The pledgor shall not enter into or execute any  
6 other agreement related to the pledged collateral that would  
7 create an interest in or lien on that collateral in any manner  
8 in favor of any third party without the written consent of the  
9 Treasurer.

10 3. The pledgor shall not grant the custodian any lien  
11 that attaches to the collateral in favor of the custodian that  
12 is superior or equal to the security interest of the  
13 Treasurer.

14 4. The pledgor shall agree that the Treasurer may,  
15 without notice to or consent by the pledgor, require the  
16 custodian to comply with and perform any and all requests and  
17 orders directly from the Treasurer. These include, but are not  
18 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 pledgor shall acknowledge that the Treasurer  
23 may, without notice to or consent by the pledgor, require the  
24 custodian to hold principal payments and income for the  
25 benefit of the Treasurer.

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

28 a. A deposit transaction of eligible collateral may be  
29 made without prior approval from the Treasurer  
30 provided: security types that have restrictions have been  
31 approved in advance of the transaction by the Treasurer and

1 simultaneous notification is given to the Treasurer; and the  
2 custodian has not received notice from the Treasurer  
3 prohibiting deposits without prior approval.

4 b. A substitution transaction of eligible collateral  
5 may be made without prior approval from the Treasurer  
6 provided: security types that have restrictions have been  
7 approved in advance of the transaction by the Treasurer; the  
8 market value of the securities to be substituted is at least  
9 equal to the amount withdrawn; simultaneous notification is  
10 given to the Treasurer; and the custodian has not received  
11 notice from the Treasurer prohibiting substitution.

12 c. A transfer of collateral between accounts at a  
13 custodian requires the Treasurer's prior approval. The  
14 collateral shall be released subject to redeposit in the new  
15 account with a pledge to the Treasurer intact.

16 d. A transfer of collateral from a custodian to  
17 another custodian requires the Treasurer's prior approval and  
18 a valid collateral agreement with the new custodian. The  
19 collateral shall be released subject to redeposit at the new  
20 custodian with a pledge to the Treasurer intact.

21 e. A withdrawal transaction requires the Treasurer's  
22 prior approval. The market value of eligible collateral  
23 remaining after the withdrawal shall be at least equal to the  
24 amount of required collateral. A withdrawal transaction shall  
25 be executed for any release of collateral including maturity  
26 or call proceeds.

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

30 7. If pledged collateral includes definitive  
31 (physical) securities in registered form which are in the name

1 of the pledgor or a nominee, the pledgor shall deliver the  
2 following documents when requested by the Treasurer:

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

5 b. Separate bond assignment forms as required by the  
6 bond agent or trustee.

7 c. Certified copies of resolutions adopted by the  
8 pledgor's governing body authorizing execution of these  
9 documents.

10 8. The pledgor shall be responsible for all costs  
11 necessary to the functioning of the collateral agreement or  
12 associated with confirmation of pledged collateral to the  
13 Treasurer and acknowledges that these costs shall not be a  
14 charge against the Treasurer or his or her interests in the  
15 pledged collateral.

16 9. The pledgor, if notified by the Treasurer, shall  
17 not be allowed to use a custodian if that custodian fails to  
18 complete the collateral agreement, releases pledged collateral  
19 without the Treasurer's approval, fails to properly complete  
20 confirmations of pledged collateral, fails to honor a request  
21 for examination of definitive pledged collateral and records  
22 of book-entry securities, or fails to provide requested  
23 documents on definitive securities.

24 10. The pledgor shall be subject to the jurisdiction  
25 of the courts of the state of Florida, or of courts of the  
26 United States located within the state of Florida, for the  
27 purpose of any litigation arising out of the act.

28 11. The pledgor is responsible and liable to the  
29 Treasurer for any action of agents the pledgor uses to execute  
30 collateral transactions or submit reports to the Treasurer.

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1           12. The pledgor shall agree that any information,  
2 forms, or reports electronically transmitted to the Treasurer  
3 shall have the same enforceability as a signed writing.

4           13. The pledgor shall submit proof that authorized  
5 individuals executed the collateral agreement on behalf of the  
6 pledgor.

7           14. The pledgor shall agree by resolution of the board  
8 of directors that collateral agreements entered into in order  
9 to hold Florida public deposits have been formally accepted  
10 and constitute official records of the pledgor.

11           15. The pledgor shall be bound by any other provisions  
12 found necessary for a perfected security interest in  
13 collateral under the Uniform Commercial Code.

14           (b) A completed collateral agreement in a form  
15 prescribed by the Treasurer in which the custodian agrees to  
16 the following provisions:

17           1. The custodian shall have no responsibility to  
18 ascertain whether the pledged securities are at least equal to  
19 the amount of required collateral nor whether the pledged  
20 securities are eligible collateral.

21           2. The custodian shall hold pledged collateral in a  
22 custody account for the Treasurer to secure Florida public  
23 deposits. The custodian shall not enter into or execute any  
24 other agreement related to the collateral that would create an  
25 interest in or lien on that collateral in any manner in favor  
26 of any third party without the written consent of the  
27 Treasurer.

28           3. The custodian shall agree that any lien that  
29 attaches to the collateral in favor of the custodian shall not  
30 be superior or equal to the security interest of the  
31 Treasurer.

1           4. The custodian shall, without notice to or consent  
2 by the pledgor, comply with and perform any and all requests  
3 and orders directly from the Treasurer. These include, but are  
4 not limited to, liquidating all collateral and submitting the  
5 proceeds directly to the Treasurer in the name of the  
6 Treasurer only or transferring all collateral into an account  
7 designated solely by the Treasurer.

8           5. The custodian shall consider principal payments on  
9 pay-down securities and income paid on pledged collateral as  
10 the property of the pledgor and shall pay thereto provided the  
11 custodian has not received written notice from the Treasurer  
12 to hold such principal payments and income for the benefit of  
13 the Treasurer.

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

16           a. A deposit transaction of eligible collateral may be  
17 made without prior approval from the Treasurer unless the  
18 custodian has received notice from the Treasurer requiring the  
19 Treasurer's prior approval.

20           b. A substitution transaction of eligible collateral  
21 may be made without prior approval from the Treasurer provided  
22 the pledgor certifies the market value of the securities to be  
23 substituted is at least equal to the market value amount of  
24 the securities to be withdrawn and the custodian has not  
25 received notice from the Treasurer prohibiting substitution.

26           c. A transfer of collateral between accounts at a  
27 custodian requires the Treasurer's prior approval. The  
28 collateral shall be released subject to redeposit in the new  
29 account with a pledge to the Treasurer intact. Confirmation  
30 from the custodian to the Treasurer must be received within 5  
31 business days of the redeposit.

1           d. A transfer of collateral from a custodian to  
2 another custodian requires the Treasurer's prior approval. The  
3 collateral shall be released subject to redeposit at the new  
4 custodian with a pledge to the Treasurer intact. Confirmation  
5 from the new custodian to the Treasurer must be received  
6 within 5 business days of the redeposit.

7           e. A withdrawal transaction requires the Treasurer's  
8 prior approval. A withdrawal transaction shall be executed for  
9 the release of any pledged collateral including maturity or  
10 call proceeds.

11           7. If pledged collateral includes definitive  
12 (physical) securities in registered form, which are in the  
13 name of the custodian or a nominee, the custodian shall  
14 deliver the following documents when requested by the  
15 Treasurer:

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

18           b. Separate bond assignment forms as required by the  
19 bond agent or trustee.

20           c. Certified copies of resolutions adopted by the  
21 custodian's governing body authorizing execution of these  
22 documents.

23           8. The custodian shall acknowledge that the pledgor is  
24 responsible for all costs necessary to the functioning of the  
25 collateral agreement or associated with confirmation of  
26 securities pledged to the Treasurer and that these costs shall  
27 not be a charge against the Treasurer or his or her interests  
28 in the pledged collateral.

29           9. The custodian shall agree to provide confirmation  
30 of pledged collateral upon request from the the Treasurer.  
31 This confirmation shall be provided within 15 working days

1 after the request, in a format prescribed by the Treasurer,  
2 and shall require no identification other than the pledgor  
3 name and location, unless the special identification is  
4 provided in the collateral agreement.

5 10. The custodian shall be subject to the jurisdiction  
6 of the courts of the state of Florida, or of courts of the  
7 United States located within the state of Florida, for the  
8 purpose of any litigation arising out of the act.

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

12 12. The custodian shall agree that any information,  
13 forms, or reports electronically transmitted to the Treasurer  
14 shall have the same enforceability as a signed writing.

15 13. The Treasurer shall have the right to examine  
16 definitive pledged collateral and records of book-entry  
17 securities during the regular business hours of the custodian  
18 without cost to the Treasurer.

19 14. The responsibilities of the custodian for the  
20 safekeeping of the pledged collateral shall be limited to the  
21 diligence and care usually exercised by a banking or trust  
22 institution toward its own property.

23 15. The custodian shall be bound by any other  
24 provisions found necessary for the Treasurer to have a  
25 perfected security interest in collateral under the Uniform  
26 Commercial Code.

27 (2) With the approval of the Treasurer, a qualified  
28 public depository or operating subsidiary, as pledgor, may  
29 deposit eligible collateral with a Federal Reserve Bank, as  
30 custodian, under an agreement with provisions as stated in  
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1 subsection (1) which are consistent with both federal and  
2 state laws and regulations.

3 (3) The Treasurer may require deposit or transfer of  
4 collateral into a custodial account established in the  
5 Treasurer's name at a designated custodian. This requirement  
6 for Treasurer's custody shall have the following  
7 characteristics:

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

9 (b) The custodian used must be a Treasurer's approved  
10 custodian that must:

11 1. Meet the definition of custodian.

12 2. Not be an affiliate of the qualified public  
13 depository.

14 3. Be bound under a distinct Treasurer's custodial  
15 contract.

16 (c) All deposit transactions require the approval of  
17 the Treasurer.

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

19 (e) The qualified public depository shall be  
20 responsible for all costs necessary to the functioning of the  
21 contract or associated with the confirmation of securities in  
22 the name of the Treasurer and acknowledges that these costs  
23 shall not be a charge against the Treasurer and may be  
24 deducted from the collateral or income earned if unpaid.

25 (4) The Treasurer may direct a custodian to deposit or  
26 transfer collateral and proceeds of securities not previously  
27 credited upon the occurrence of one or more triggering events  
28 provided that, to the extent not incompatible with the  
29 protection of public deposits, as determined in the  
30 Treasurer's sole and absolute discretion, the Treasurer shall  
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- 1 provide a custodian with 48 hours' advance notice before  
2 directing such deposit or transfer. These events include:
- 3 (a) The Treasurer determines that an immediate danger  
4 to the public health, safety, or welfare exists.
- 5 (b) The qualified public depository fails to have  
6 adequate procedures and practices for the accurate  
7 identification, classification, reporting, and  
8 collateralization of public deposits.
- 9 (c) The custodian fails to provide or allow inspection  
10 and verification of documents, reports, records, or other  
11 information dealing with the pledged collateral or financial  
12 information.
- 13 (d) The qualified public depository or its operating  
14 subsidiary fails to provide or allow inspection and  
15 verification of documents, reports, records, or other  
16 information dealing with Florida public deposits, pledged  
17 collateral, or financial information.
- 18 (e) The custodian fails to hold income and principal  
19 payments made on securities held as collateral or fails to  
20 deposit or transfer such payments pursuant to the Treasurer's  
21 instructions.
- 22 (f) The qualified public depository defaults or  
23 becomes insolvent.
- 24 (g) The qualified public depository fails to pay an  
25 assessment.
- 26 (h) The qualified public depository fails to pay an  
27 administrative penalty.
- 28 (i) The qualified public depository fails to meet  
29 financial condition standards.
- 30 (j) The qualified public depository charges a  
31 withdrawal penalty to public depositors when the qualified

1 public depository is suspended, disqualified, or withdrawn  
2 from the public deposits program.

3 (k) The qualified public depository does not provide,  
4 as required, the public depositor with annual confirmation  
5 information on all open Florida public deposit accounts.

6 (l) The qualified public depository pledges  
7 insufficient or unacceptable collateral to cover public  
8 deposits.

9 (m) Pledged collateral, other than a proper  
10 substitution, is released without the prior approval of the  
11 Treasurer.

12 (n) The qualified public depository, custodian,  
13 operating subsidiary, or agent violates any provision of the  
14 act and the Treasurer determines that such violation may be  
15 remedied by a move of collateral.

16 (o) The qualified public depository, custodian,  
17 operating subsidiary, or agent fails to timely cooperate in  
18 resolving problems by the date established in written  
19 communication from the Treasurer.

20 (p) The custodian fails to provide sufficient  
21 confirmation information.

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

24 (5) The Treasurer shall adopt rules to identify forms  
25 and establish procedures for collateral agreements and  
26 transactions, furnish confirmation requirements, establish  
27 procedures for using an operating subsidiary and agents, and  
28 clarify terms.

29 Section 4. Paragraph (c) of subsection (1) and  
30 subsection (2) of section 280.13, Florida Statutes, are  
31 amended to read:

1           280.13 Collateral eligible for pledge by banks and  
2 savings associations.--

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

5           (c) Obligations of the following federal agencies:

6           1. Farm credit banks.

7           2. Federal land banks.

8           3. The Federal Home Loan Bank and its district banks,  
9 ~~including time deposits.~~

10          4. Federal intermediate credit banks.

11          5. The Federal Home Loan Mortgage Corporation.

12          6. The Federal National Mortgage Association.

13          7. Obligations guaranteed by the Government National  
14 Mortgage Association.

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

20          (a) Securities of, or other interests in, any open-end  
21 management investment company registered under the Investment  
22 Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended  
23 from time to time, provided the portfolio of such investment  
24 company is limited to direct obligations of the United States  
25 Government and to repurchase agreements fully collateralized  
26 by such direct obligations of the United States Government and  
27 provided such investment company takes delivery of such  
28 collateral either directly or through an authorized custodian.

29          (b) Collateralized Mortgage Obligations.

30          (c) Real Estate Mortgage Investment Conduits.

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

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

4           625.52 Securities eligible for deposit.--

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

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

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

14           (a) The certificate of deposit must be issued by a  
15 bank, savings bank, or savings association that is organized  
16 under the laws of the United States, of this state, or of any  
17 other state and that has a principal office or branch office  
18 in this state which is authorized to receive deposits in this  
19 state ~~qualified public depository as defined in s. 280.02(17),~~  
20 ~~and the depository must conform to and be bound by all~~  
21 ~~provisions of chapter 280 with regard to such funds.~~

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

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

26           (d) The issuing bank, savings bank, or savings  
27 association ~~qualified public depository~~ must agree to the  
28 terms and conditions of the State Treasurer regarding the  
29 rights to the certificate of deposit and must have executed a  
30 provide written certificate of deposit ~~confirmation of such~~  
31 agreement with ~~to~~ the State Treasurer. The terms and

1 conditions of such agreement shall ~~must~~ include, but need not  
2 be limited to:

3 1. Exclusive authorized signature authority for the  
4 State Treasurer.

5 2. Agreement to pay, without protest, the proceeds of  
6 its certificate of deposit to the department within thirty  
7 business days after presentation. ~~If the depository fails to~~  
8 ~~pay the proceeds, the State Treasurer may take legal title to,~~  
9 ~~and sell, sufficient securities of the depository held~~  
10 ~~pursuant to chapter 280 to pay to the department the face~~  
11 ~~value of the certificate of deposit.~~

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

15 4. Instructions regarding interest payments, renewals,  
16 taxpayer identification, and early withdrawal penalties.

17 5. Agreement to be subject to the jurisdiction of the  
18 courts of this state, or those of the United States which are  
19 located in this state, for the purposes of any litigation  
20 arising out of this section.

21 ~~6.5.~~ Such other conditions as the department requires  
22 ~~may require.~~

23 Section 6. Section 660.27, Florida Statutes, is  
24 amended to read:

25 660.27 Deposit of securities with department  
26 ~~Treasurer.~~--

27 (1) Before transacting any trust business in this  
28 state, every trust company ~~and every state or national bank or~~  
29 ~~state or federal association having trust powers~~ shall give  
30 satisfactory security by ~~the deposit or~~ pledge of security of  
31 the kind or type provided by rule ~~in this section~~ having at

1 all times a market value in an amount at least equal to 25  
2 percent of the issued and outstanding capital stock of such  
3 trust company, ~~bank, or state or federal stock association or,~~  
4 ~~in the case of a federal mutual association, an equivalent~~  
5 ~~amount determined by the department, or the sum of \$25,000,~~  
6 ~~whichever is greater.~~ However, the value of the security  
7 ~~deposited or pledged~~ pursuant to the provisions of this  
8 section by a ~~state trust company, a state bank or state~~  
9 ~~association having trust powers, or a national bank or federal~~  
10 ~~association~~ having its principal office in this state ~~and~~  
11 ~~having trust powers~~ shall not be required to exceed \$500,000.  
12 Any notes, mortgages, bonds, or other securities, other than  
13 shares of stock, eligible for investment by a ~~state bank,~~  
14 ~~state association, or state trust company,~~ or eligible for  
15 investment by fiduciaries, shall be accepted as satisfactory  
16 security for the purposes of this section.

17 (2) The department Treasurer shall determine whether  
18 the security ~~deposited or~~ pledged pursuant to this section, or  
19 tendered for such ~~deposit or~~ pledge, is of the kind or type  
20 permitted, and has a market value in the amount required, by  
21 subsection (1). The department may disallow otherwise  
22 satisfactory security that is of a type susceptible to large  
23 fluctuations in value or that derives its value from indices  
24 of value, interest rates, or other instruments or from sources  
25 other than the repayment capacity of the issuer. The security  
26 required by this section shall be ~~deposited with or to the~~  
27 ~~credit of, or~~ pledged to, the department Treasurer for the  
28 account of each ~~state or national bank, state or federal~~  
29 ~~association, or trust company~~ depositing or pledging the same  
30 and shall be used, if at all, by the liquidator of such ~~bank,~~  
31 ~~association, or trust company~~ with first priority being given

1 to claims on account of the trust business or fiduciary  
2 functions of such ~~bank, association, or~~ trust company or,  
3 prior to liquidation, for the payment of any judgment or  
4 decree which may be rendered against such ~~bank, association,~~  
5 ~~or~~ trust company in connection with its trust business or its  
6 fiduciary functions if such judgment or decree is not  
7 otherwise paid by, or out of other assets of, such ~~bank,~~  
8 ~~association, or~~ trust company.

9 (3) Any security of any kind which has been ~~deposited~~  
10 ~~or~~ pledged as provided in this section may at any time, by or  
11 upon the direction of such ~~bank, association, or~~ trust company  
12 which ~~deposited or~~ pledged such security, be withdrawn and  
13 released from such pledge provided that simultaneously  
14 therewith satisfactory security as provided in this section,  
15 in such amount, if any, as may be necessary in order to comply  
16 with the requirements of this section, is substituted for the  
17 security so withdrawn and released. With respect to the  
18 ~~deposit or~~ pledge of securities as provided in this section,  
19 the department ~~Treasurer~~ may accept a safekeeping receipt, in  
20 a form it ~~he or she~~ prescribes, issued by another bank, trust  
21 company, or savings association located within or without the  
22 state.

23 (4) The department may adopt rules to implement this  
24 section.

25 Section 7. This act shall take effect July 1, 2000,  
26

27 \*\*\*\*\*

28 SENATE SUMMARY

29 Substantially revises guidelines and standards governing  
30 collateral and collateral agreements for public deposits.  
31 Prescribes duties of the Treasurer and the Department of  
Banking and Finance with respect to establishing duties  
of public depositories and establishing standards for  
securing deposits.