

By the Committee on Banking and Insurance; and Senator Rossin

311-1802-00

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          Treasurer; providing an effective date.

23  
 24 Be It Enacted by the Legislature of the State of Florida:

25  
 26           Section 1. Section 280.02, Florida Statutes, is  
 27 amended to read:

28           280.02 Definitions.--As used in this chapter, the  
 29 term:

30           (1) "Affiliate" means an entity that is related  
 31 through a parent corporation's controlling interest. The term

1 also includes any financial institution holding company or any  
2 subsidiary or service corporation of such holding company.

3 (2)~~(1)~~ "Average daily balance" means the average daily  
4 balance of public deposits held during the reported month. The  
5 average daily balance must be determined by totaling, by  
6 account, the daily balances held by the depositor and then  
7 dividing the total by the number of calendar days in the  
8 month. Deposit insurance is then deducted from each account  
9 balance and the resulting amounts are totaled to obtain the  
10 average daily balance.

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

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

25 (5)~~(3)~~ "Capital account" means total equity capital,  
26 as defined on the balance-sheet portion of the Consolidated  
27 Reports of Condition and Income (call report) or the Thrift  
28 Financial Report, less intangible assets, as submitted to the  
29 regulatory banking authority.

30 (6)~~(4)~~ "Collateral-pledging level," for qualified  
31 public depositories, means the percentage of collateral

1 required to be pledged as provided in s. 280.04 by a financial  
2 institution.

3 (7)~~(5)~~ "Current month" means the month immediately  
4 following the month for which the monthly report is due from  
5 qualified public depositories.

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

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

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

12 (c) Agrees to be subject to the jurisdiction of the  
13 courts of this state, or of courts of the United States which  
14 are located within this state, for the purpose of any  
15 litigation arising out of this chapter; and

16 (d) Has been approved by the Treasurer to act as a  
17 custodian.

18 (9)~~(7)~~ "Default or insolvency" includes, without  
19 limitation, the failure or refusal of a qualified public  
20 depository to pay any check or warrant drawn upon sufficient  
21 and collected funds by any public depositor or to return any  
22 deposit on demand or at maturity together with interest as  
23 agreed; the issuance of an order by any supervisory authority  
24 restraining such depository from making payments of deposit  
25 liabilities; or the appointment of a receiver for such  
26 depository.

27 (10)~~(8)~~ "Effective date of notice of withdrawal or  
28 order of discontinuance" pursuant to s. 280.11(3) means that  
29 date which is set out as such in any notice of withdrawal or  
30 order of discontinuance from the Treasurer.

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1           ~~(11)(9)~~ "Eligible collateral" means securities as  
2 designated in s. 280.13.

3           ~~(12)(10)~~ "Financial institution" means, including, but  
4 not limited to, an association, bank, brokerage firm, credit  
5 union, industrial savings bank, savings and loan association,  
6 trust company, or other type of financial institution  
7 organized under the laws of this state or any other state of  
8 the United States and doing business in this state or any  
9 other state, in the general nature of the business conducted  
10 by banks and savings associations.

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

16           ~~(14)(12)~~ "Loss to public depositors" means loss of all  
17 principal and all interest or other earnings on the principal  
18 accrued or accruing as of the date the qualified public  
19 depository was declared in default or insolvent.

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

27           (16) "Pledged collateral" means securities or cash  
28 held separately and distinctly by an eligible custodian for  
29 the benefit of the Treasurer to be used as security for  
30 Florida public deposits. This includes maturity and call  
31 proceeds.

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

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

6           (19)~~(13)~~ "Previous month" means the month or months  
7 immediately preceding the month for which a monthly report is  
8 due from qualified public depositories.

9           (20)~~(14)~~ "Public deposit" means the moneys of the  
10 state or of any county, school district, community college  
11 district, special district, metropolitan government, or  
12 municipality, including agencies, boards, bureaus,  
13 commissions, and institutions of any of the foregoing, or of  
14 any court, and includes the moneys of all county officers,  
15 including constitutional officers, that are placed on deposit  
16 in a bank, savings bank, or savings association and for which  
17 the bank, savings bank, or savings association is required to  
18 maintain reserves. This includes, including, but is not  
19 limited to, time deposit accounts, demand deposit accounts,  
20 and nonnegotiable certificates of deposit. All certificates  
21 of deposit, whether negotiable or nonnegotiable, shall be  
22 considered deposits and shall be subject to the provisions of  
23 this chapter. Moneys in deposit notes and in other nondeposit  
24 accounts such as used in repurchase or reverse repurchase  
25 operations are investments and are not public deposits as  
26 defined in this subsection. Securities, mutual funds, and  
27 similar types of investments are not considered public  
28 deposits and shall not be subject to the provisions of this  
29 chapter.

1           (21)~~(15)~~ "Public depositor" means the Treasurer or  
2 other chief financial officer or designee responsible for  
3 handling public deposits.

4           (22)~~(16)~~ "Public deposits program" means the  
5 administration of this chapter by or on behalf of the  
6 Treasurer.

7           (23)~~(17)~~ "Qualified public depository" means any bank,  
8 savings bank, or savings association that:

9           (a) Is organized and exists under the laws of the  
10 United States, the laws of this state or any other state or  
11 territory of the United States.

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

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

19           (d) Has procedures and practices for accurate  
20 identification, classification, reporting, and  
21 collateralization of public deposits.

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

23           (f) Has been designated by the Treasurer as a  
24 qualified public depository.

25           (24)~~(18)~~ "Reported month" means the month for which a  
26 monthly report is due from qualified public depositories.

27           (25)~~(19)~~ "Required collateral" of a qualified public  
28 depository means eligible collateral having a market value  
29 equal to or in excess of the amount required to be pledged  
30 pursuant to s. 280.04 as computed and reported monthly or when  
31 requested by the Treasurer.

1           ~~(26)~~~~(20)~~ "Treasurer" means the Treasurer of the State  
2 of Florida.

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

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

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

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

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

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

27           (2) A qualified public depository may not accept or  
28 retain any public deposit which is required to be secured  
29 unless it has deposited with the Treasurer eligible collateral  
30 at least equal to the greater of:

31

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

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

8           2. One hundred twenty-five percent of the average  
9 daily balance of public deposits in excess of 20 percent of  
10 the pool figure.

11           (b) Twenty-five percent of the average monthly balance  
12 of public deposits.

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

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

17           2. Has experienced material decreases in its capital  
18 accounts; or

19           3. Has an overall financial condition that is  
20 materially deteriorating.

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

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

26           (3) Additional collateral is required within 48 hours  
27 if public deposits are accepted that would increase the  
28 qualified public depository's average daily balance for the  
29 current month by 25 percent over the average daily balance of  
30 the previously reported month.

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

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

8           (a) Use a nationally recognized source.

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

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

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

17           280.041 Collateral arrangements; agreements,  
18 provisions, and triggering events.--

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

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

28           1. The pledgor shall own the pledged collateral. The  
29 pledged collateral shall be eligible collateral and shall be  
30 at least equal to the amount of required collateral.

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1           2. The pledgor shall grant to the Treasurer an  
2 interest in pledged collateral for the purposes of this  
3 section. The pledgor shall not enter into or execute any other  
4 agreement related to the pledged collateral that would create  
5 an interest in or lien on that collateral in any manner in  
6 favor of any third party without the written consent of the  
7 Treasurer.

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

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

20           5. The pledgor shall acknowledge that the Treasurer  
21 may, without notice to or consent by the pledgor, require the  
22 custodian to hold principal payments and income for the  
23 benefit of the Treasurer.

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

26           a. A deposit transaction of eligible collateral may be  
27 made without prior approval from the Treasurer  
28 provided: security types that have restrictions have been  
29 approved in advance of the transaction by the Treasurer and  
30 simultaneous notification is given to the Treasurer; and the  
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1 custodian has not received notice from the Treasurer  
2 prohibiting deposits without prior approval.

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

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

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

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

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

29 7. If pledged collateral includes definitive  
30 (physical) securities in registered form which are in the name  
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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 for  
9 purposes of this section have been formally accepted and  
10 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 for purposes of this  
23 section. 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 Treasurer. This  
31 confirmation shall be provided within 15 working days after

1 the request, in a format prescribed by the Treasurer, and  
2 shall require no identification other than the pledgor name  
3 and location, unless the special identification is provided in  
4 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 pledgor may  
28 deposit eligible collateral pursuant to an agreement with a  
29 Federal Reserve Bank. The Federal Reserve Bank agreement may  
30 require terms not consistent with subsection (1).

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

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

7           (b) The custodian used must be a Treasurer's approved  
8 custodian that must:

9           1. Meet the definition of custodian.

10           2. Not be an affiliate of the qualified public  
11 depository.

12           3. Be bound under a distinct Treasurer's custodial  
13 contract.

14           (c) All deposit transactions require the approval of  
15 the Treasurer.

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

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

23           (4) The Treasurer may direct a custodian to deposit or  
24 transfer collateral and proceeds of securities not previously  
25 credited upon the occurrence of one or more triggering events  
26 provided that, to the extent not incompatible with the  
27 protection of public deposits, as determined in the  
28 Treasurer's sole and absolute discretion, the Treasurer shall  
29 provide a custodian with 48 hours' advance notice before  
30 directing such deposit or transfer. These events include:

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1           (a) The Treasurer determines that an immediate danger  
2 to the public health, safety, or welfare exists.

3           (b) The qualified public depository fails to have  
4 adequate procedures and practices for the accurate  
5 identification, classification, reporting, and  
6 collateralization of public deposits.

7           (c) The custodian fails to provide or allow inspection  
8 and verification of documents, reports, records, or other  
9 information dealing with the pledged collateral or financial  
10 information.

11           (d) The qualified public depository or its operating  
12 subsidiary fails to provide or allow inspection and  
13 verification of documents, reports, records, or other  
14 information dealing with Florida public deposits, pledged  
15 collateral, or financial information.

16           (e) The custodian fails to hold income and principal  
17 payments made on securities held as collateral or fails to  
18 deposit or transfer such payments pursuant to the Treasurer's  
19 instructions.

20           (f) The qualified public depository defaults or  
21 becomes insolvent.

22           (g) The qualified public depository fails to pay an  
23 assessment.

24           (h) The qualified public depository fails to pay an  
25 administrative penalty.

26           (i) The qualified public depository fails to meet  
27 financial condition standards.

28           (j) The qualified public depository charges a  
29 withdrawal penalty to public depositors when the qualified  
30 public depository is suspended, disqualified, or withdrawn  
31 from the public deposits program.

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

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

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

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

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

18           (p) The custodian fails to provide sufficient  
19 confirmation information.

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

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

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

30           280.13 Collateral eligible for pledge by banks and  
31 savings associations.--

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

3           (c) Obligations of the following federal agencies:

4           1. Farm credit banks.

5           2. Federal land banks.

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

8           4. Federal intermediate credit banks.

9           5. The Federal Home Loan Mortgage Corporation.

10          6. The Federal National Mortgage Association.

11          7. Obligations guaranteed by the Government National  
12 Mortgage Association.

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

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

27          (b) Collateralized Mortgage Obligations.

28          (c) Real Estate Mortgage Investment Conduits.

29          ~~(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 Treasurer.--

26 (1) Before transacting any trust business in this  
27 state, every trust company and every state or national bank or  
28 state or federal association having trust powers shall give  
29 satisfactory security by the deposit or pledge of security of  
30 the kind or type provided in this section having at all times  
31 a market value in an amount equal to 25 percent of the issued

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

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

18 (a) Written information which includes full legal  
19 name; federal employer identification number; principal place  
20 of business; amount of capital stock; and amount of required  
21 collateral.

22 (b) The required information listed in paragraph (a)  
23 shall be provided annually as of September 30 and shall be due  
24 November 15.

25 ~~(3)~~(2) The Treasurer shall determine whether the  
26 security deposited or pledged pursuant to this section, or  
27 tendered for such deposit or pledge, is of the kind or type  
28 permitted, and has a market value in the amount required, by  
29 subsection (1). The security required by this section shall  
30 be deposited with or to the credit of, or pledged to, the  
31 Treasurer for the account of each state or national bank,

1 state or federal association, or trust company depositing or  
2 pledging the same and shall be used, if at all, by the  
3 liquidator of such bank, association, or trust company with  
4 first priority being given to claims on account of the trust  
5 business or fiduciary functions of such bank, association, or  
6 trust company or, prior to liquidation, for the payment of any  
7 judgment or decree which may be rendered against such bank,  
8 association, or trust company in connection with its trust  
9 business or its fiduciary functions if such judgment or decree  
10 is not otherwise paid by, or out of other assets of, such  
11 bank, association, or trust company.

12 ~~(4)(3)~~ Any security of any kind which has been  
13 deposited or pledged as provided in this section may at any  
14 time, by or upon the direction of such bank, association, or  
15 trust company which deposited or pledged such security, be  
16 withdrawn and released from such pledge provided that  
17 simultaneously therewith satisfactory security as provided in  
18 this section, in such amount, if any, as may be necessary in  
19 order to comply with the requirements of this section, is  
20 substituted for the security so withdrawn and released.

21 (5) With the approval of the Treasurer, each trust  
22 company, bank, or association as pledgor may deposit eligible  
23 collateral with a custodian. This custodian shall not be  
24 affiliated or related to the trust company, bank, or  
25 association. Collateral must be deposited using the collateral  
26 agreements and provisions as set forth in s. 280.041(1)(2).  
27 ~~With respect to the deposit or pledge of securities as~~  
28 ~~provided in this section, the Treasurer may accept a~~  
29 ~~safekeeping receipt, in a form he or she prescribes, issued by~~  
30 ~~another bank, trust company, or savings association located~~  
31 ~~within or without the state.~~



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

2  
3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
4 COMMITTEE SUBSTITUTE FOR  
5 Senate Bill 2130

6 The committee substitute revises provisions relating to the  
7 qualified public depository program and security deposits by  
8 trust companies and banks and associations having trust  
9 powers, as follows:

- 10 1. Allows qualified depositories to enter into collateral  
11 agreements with Federal Reserve banks, upon approval of  
12 the Treasurer, that may require terms that are not  
13 consistent with the qualified public depository program.
- 14 2. Requires a trust company, bank, or association to  
15 provide the Treasurer with the following written  
16 information: 1) the full legal name of the entity; 2)  
17 the employer identification number; 3) the principal  
18 place of business; and 4) the amount of capital stock  
19 and amount of required collateral.
- 20 3. Limits the security deposit or pledge for each trust  
21 company, bank, or association having trust powers to  
22 \$500,000. Currently, if an entity with trust powers has  
23 its principal place of business in Florida the security  
24 requirement may not exceed \$500,000. Generally, an  
25 entity that does not have its principal place of  
26 business in Florida must provide a security deposit or  
27 pledge in the amount of 25 percent of the issued and  
28 outstanding capital stock.
- 29 4. Authorizes each trust company, bank, or association as  
30 pledgor, with the approval of the Treasurer to deposit  
31 eligible collateral with a custodian. The custodian may  
not be affiliated or related to the trust company, bank,  
or association.
5. Eliminates the rulemaking authority for the Department  
of Insurance, as authorized in the bill, relating to  
security deposit requirements for trust companies and  
banks and associations with trust powers.
6. Eliminates the transfer of duties relating to the  
oversight of security deposit requirements for trust  
companies and banks and associations with trust powers  
from the Department of Insurance to the Department of  
Banking and Finance, as authorized in the bill.