

By Senator Smith

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20102430__

1 A bill to be entitled
2 An act relating to security for public deposits;
3 amending s. 280.02, F.S.; defining the terms "electing
4 public depository" and "participating public
5 depository"; amending s. 280.04, F.S.; providing
6 additional parameters for determining pledging levels
7 for each qualified public depository; providing an
8 additional minimum collateral threshold that a
9 qualified public depository must meet before accepting
10 or retaining a public deposit that is required to be
11 secured; amending s. 280.07, F.S.; providing a
12 procedure by which a qualified public depository may
13 become an electing public depository; exempting an
14 electing depository from certain requirements;
15 providing for the suspension of certain agreements
16 that contradict such exemption; providing for the
17 classification of electing public depositories that do
18 not meet certain collateral requirements; providing
19 that an electing public depository may terminate its
20 election upon written notice to the Chief Financial
21 Officer; authorizing the Chief Financial Officer to
22 deny such revocation upon consideration of specified
23 factors; requiring that the Chief Financial Officer
24 release certain excess collateral upon revocation of
25 an election; amending s. 280.08, F.S.; conforming
26 provisions to changes made by the act; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

29-01292A-10

20102430

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31 Section 1. Subsections (31) and (32) are added to section
32 280.02, Florida Statutes, to read:

33 280.02 Definitions.—As used in this chapter, the term:

34 (31) "Electing public depository" means a qualified public
35 depository that has made the election in s. 280.07(2) in
36 compliance with the collateral requirements of s. 280.04.

37 (32) "Participating public depository" is a qualified
38 public depository that is not an electing public depository on
39 the date the Chief Financial Officer has determined a qualified
40 public depository to be in default or insolvent.

41 Section 2. Subsection (1) of section 280.04, Florida
42 Statutes, is amended, and paragraph (g) is added to subsection
43 (2) of that section, to read:

44 280.04 Collateral for public deposits; general provisions.—

45 (1) The Chief Financial Officer shall determine the
46 collateral requirements and collateral pledging level for each
47 qualified public depository following procedures established by
48 rule. These procedures shall include numerical parameters for
49 25-percent, 50-percent, 110-percent, 125-percent, and 200-
50 percent pledge levels based on nationally recognized financial
51 rating services information and established financial
52 performance guidelines.

53 (2) A qualified public depository may not accept or retain
54 any public deposit which is required to be secured unless it has
55 deposited with the Chief Financial Officer eligible collateral
56 at least equal to the greater of:

57 (g) One hundred ten percent of the average daily balance of
58 public deposits if the qualified public depository is an

29-01292A-10

20102430__

59 electing public depository.

60 Section 3. Section 280.07, Florida Statutes, is amended to
61 read:

62 280.07 Mutual responsibility and contingent liability.—

63 (1) Any bank or savings association that is designated as a
64 participating ~~qualified~~ public depository and that is not
65 insolvent shall guarantee public depositors against loss caused
66 by the default or insolvency of other qualified public
67 depositories. Each participating ~~qualified~~ public depository
68 shall execute a form prescribed by the Chief Financial Officer
69 for such guarantee which shall be approved by the board of
70 directors and shall become an official record of the
71 institution.

72 (2) A qualified public depository becomes an electing
73 public depository upon written notice to the Chief Financial
74 Officer that the qualified public depository desires to be
75 classified as an electing public depository and upon compliance
76 with the collateral requirements of s. 280.04 for an electing
77 public depository. An electing public depository shall not be
78 subject to the cross-guaranty pool requirements of a
79 participating public depository or any security agreement,
80 guarantee, or other agreement with the Chief Financial Officer
81 to the contrary and shall be suspended while the qualified
82 public depository is classified as an electing public
83 depository. A qualified public depository making the election to
84 be classified as an electing public depository shall be treated
85 as a participating public depository at any time it is not in
86 compliance with the collateral requirements of s. 280.04
87 applicable to an electing public depository.

29-01292A-10

20102430__

88 (3) An electing public depository may terminate its
89 election and reenter the cross-guaranty pool by providing
90 written notice to the Chief Financial Officer. The Chief
91 Financial Officer may deny revocation of such election or
92 reentry into the cross-guaranty pool after considering the
93 electing public depository's level of capitalization, credit
94 rating, or other factors relating to bank health. Upon
95 revocation of the election, the Chief Financial Officer shall
96 release any excess collateral applicable to the revoked
97 depository's status as an electing public depository.

98 Section 4. Subsections (3) and (4) of section 280.08,
99 Florida Statutes, are amended to read:

100 280.08 Procedure for payment of losses.—When the Chief
101 Financial Officer determines that a default or insolvency has
102 occurred, he or she shall provide notice as required in s.
103 280.085 and implement the following procedures:

104 (3) (a) The loss to public depositors shall be satisfied,
105 insofar as possible, first through any applicable deposit
106 insurance and then through demanding payment under letters of
107 credit or the sale of collateral pledged or deposited by the
108 defaulting depository. The Chief Financial Officer may assess
109 participating ~~qualified~~ public depositories as provided in
110 paragraph (b) for the total loss if the demand for payment or
111 sale of collateral cannot be accomplished within 7 business
112 days.

113 (b) The Chief Financial Officer shall provide coverage of
114 any remaining loss by assessment against the other participating
115 ~~qualified~~ public depositories. The Chief Financial Officer shall
116 determine such assessment for each participating ~~qualified~~

29-01292A-10

20102430__

117 public depository by multiplying the total amount of any
118 remaining loss to all public depositors by a percentage which
119 represents the average monthly balance of public deposits held
120 by each participating ~~qualified~~ public depository during the
121 previous 12 months divided by the total average monthly balances
122 of public deposits held by all participating ~~qualified~~ public
123 depositories, excluding the defaulting depository, during the
124 same period. The assessment calculation shall be computed to six
125 decimal places.

126 (4) Each participating ~~qualified~~ public depository shall
127 pay its assessment to the Chief Financial Officer within 7
128 business days after it receives notice of the assessment. If a
129 depository fails to pay its assessment when due, the Chief
130 Financial Officer shall satisfy the assessment by demanding
131 payment under letters of credit or selling collateral pledged or
132 deposited by that depository.

133 Section 5. This act shall take effect July 1, 2010.