

By Senator Smith

29-00318-12

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1                                   A bill to be entitled  
 2           An act relating to public depositories; amending s.  
 3           280.02, F.S.; revising definitions applicable to the  
 4           Florida Security for Public Deposits Act; amending ss.  
 5           280.03, 280.052, 280.053, 280.07, 280.10, and 280.13,  
 6           F.S.; conforming terminology to changes made by the  
 7           act; amending s. 280.16, F.S.; revising credit union  
 8           reporting requirements; amending s. 280.17, F.S.;  
 9           revising evidence of insurance required to be  
 10          submitted by a public depositor to the Chief Financial  
 11          Officer; providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Subsections (6), (9), (23), and (26) of section  
 16          280.02, Florida Statutes, are amended to read:

17           280.02 Definitions.—As used in this chapter, the term:

18           (6) "Capital account" means total equity capital, as  
 19          defined on the balance-sheet portion of the Consolidated Reports  
 20          of Condition and Income (call report), the National Credit Union  
 21          Administration 5300 Call Report, or the Thrift Financial Report,  
 22          less intangible assets, as submitted to the regulatory financial  
 23          ~~banking~~ authority.

24           (9) "Custodian" means the Chief Financial Officer or any  
 25          financial institution ~~bank, savings association, or trust~~  
 26          ~~company~~ that:

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

29           (b) Has executed all forms required under this chapter or

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30 any rule adopted hereunder;

31 (c) Agrees to be subject to the jurisdiction of the courts  
32 of this state, or of courts of the United States which are  
33 located within this state, for the purpose of any litigation  
34 arising out of this chapter; and

35 (d) Has been approved by the Chief Financial Officer to act  
36 as a custodian.

37 (23) "Public deposit" means the moneys of the state or of  
38 any state university, county, school district, community college  
39 district, special district, metropolitan government, or  
40 municipality, including agencies, boards, bureaus, commissions,  
41 and institutions of any of the foregoing, or of any court, and  
42 includes the moneys of all county officers, including  
43 constitutional officers, that are placed on deposit in a  
44 financial institution ~~bank, savings bank, or savings association~~  
45 and for which the financial institution ~~bank, savings bank, or~~  
46 ~~savings association~~ is required to maintain reserves. This  
47 includes, but is not limited to, time deposit accounts, demand  
48 deposit accounts, and nonnegotiable certificates of deposit.  
49 Moneys in deposit notes and in other nondeposit accounts such as  
50 repurchase or reverse repurchase operations are not public  
51 deposits. Securities, mutual funds, and similar types of  
52 investments are not considered public deposits and shall not be  
53 subject to the provisions of this chapter.

54 (26) "Qualified public depository" means any financial  
55 institution ~~bank, savings bank, or savings association~~ that:

56 (a) Is organized and exists under the laws of the United  
57 States, the laws of this state, or the laws of any other state  
58 or territory of the United States.

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59 (b) Has its principal place of business in this state or  
60 has a branch office in this state which is authorized under the  
61 laws of this state or of the United States to receive deposits  
62 in this state.

63 (c) Is insured by the Federal Deposit Insurance Corporation  
64 or the National Credit Union Share Insurance Fund ~~Has deposit~~  
65 ~~insurance under the provision of the Federal Deposit Insurance~~  
66 ~~Act, as amended, 12 U.S.C. ss. 1811 et seq.~~

67 (d) Has procedures and practices for accurate  
68 identification, classification, reporting, and collateralization  
69 of public deposits.

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

71 (f) Has been designated by the Chief Financial Officer as a  
72 qualified public depository.

73 Section 2. Paragraph (a) of subsection (3) of section  
74 280.03, Florida Statutes, is amended to read:

75 280.03 Public deposits to be secured; prohibitions;  
76 exemptions.—

77 (3) The following are exempt from the requirements of, and  
78 protection under, this chapter:

79 (a) Public deposits deposited in a financial institution  
80 ~~bank or savings association~~ by a trust department or trust  
81 company which are fully secured under trust business laws.

82 Section 3. Subsection (1) of section 280.052, Florida  
83 Statutes, is amended to read:

84 280.052 Order of suspension or disqualification;  
85 procedure.—

86 (1) The suspension or disqualification of a financial  
87 institution ~~bank or savings association~~ as a qualified public

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88 depository must be by order of the Chief Financial Officer and  
89 must be mailed to the qualified public depository by registered  
90 or certified mail.

91 Section 4. Paragraph (c) of subsection (1) and paragraph  
92 (c) of subsection (2) of section 280.053, Florida Statutes, are  
93 amended to read:

94 280.053 Period of suspension or disqualification;  
95 obligations during period; reinstatement.-

96 (1)

97 (c) Upon expiration of the suspension period, the financial  
98 institution ~~bank or savings association~~ may, by order of the  
99 Chief Financial Officer, be reinstated as a qualified public  
100 depository, unless the cause of the suspension has not been  
101 corrected or the financial institution ~~bank or savings~~  
102 ~~association~~ is otherwise not in compliance with this chapter or  
103 any rule adopted pursuant to this chapter.

104 (2)

105 (c) Upon expiration of the disqualification period, the  
106 financial institution ~~bank or savings association~~ may reapply  
107 for qualification as a qualified public depository. If a  
108 disqualified financial institution ~~bank or savings association~~  
109 is purchased or otherwise acquired by new owners, it may reapply  
110 to the Chief Financial Officer to be a qualified public  
111 depository prior to the expiration date of the disqualification  
112 period. Redesignation as a qualified public depository may occur  
113 only after the Chief Financial Officer has determined that all  
114 requirements for holding public deposits under the law have been  
115 met.

116 Section 5. Section 280.07, Florida Statutes, is amended to

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117 read:

118 280.07 Mutual responsibility and contingent liability.—Any  
119 financial institution ~~bank or savings association~~ that is  
120 designated as a qualified public depository and that is not  
121 insolvent shall guarantee public depositors against loss caused  
122 by the default or insolvency of other qualified public  
123 depositories. Each qualified public depository shall execute a  
124 form prescribed by the Chief Financial Officer for such  
125 guarantee which shall be approved by the board of directors and  
126 shall become an official record of the institution.

127 Section 6. Subsection (1) of section 280.10, Florida  
128 Statutes, is amended to read:

129 280.10 Effect of merger, acquisition, or consolidation;  
130 change of name or address.—

131 (1) When a qualified public depository is merged into,  
132 acquired by, or consolidated with a financial institution ~~bank,~~  
133 ~~savings bank, or savings association~~ that is not a qualified  
134 public depository:

135 (a) The resulting institution shall automatically become a  
136 qualified public depository subject to the requirements of the  
137 public deposits program.

138 (b) The contingent liability of the former institution  
139 shall be a liability of the resulting institution.

140 (c) The public deposits and associated collateral of the  
141 former institution shall be public deposits and collateral of  
142 the resulting institution.

143 (d) The resulting institution shall, within 90 calendar  
144 days after the effective date of the merger, acquisition, or  
145 consolidation, deliver to the Chief Financial Officer:

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146 1. Documentation in its name as required for participation  
147 in the public deposits program; or

148 2. Written notice of intent to withdraw from the program as  
149 provided in s. 280.11 and a proposed effective date of  
150 withdrawal which shall be within 180 days after the effective  
151 date of the acquisition, merger, or consolidation of the former  
152 institution.

153 (e) If the resulting institution does not meet  
154 qualifications to become a qualified public depository or does  
155 not submit required documentation within 90 calendar days after  
156 the effective date of the merger, acquisition, or consolidation,  
157 the Chief Financial Officer shall initiate mandatory withdrawal  
158 actions as provided in s. 280.11 and shall set an effective date  
159 of withdrawal that is within 180 days after the effective date  
160 of the acquisition, merger, or consolidation of the former  
161 institution.

162 Section 7. Subsection (1) of section 280.13, Florida  
163 Statutes, is amended to read:

164 280.13 Eligible collateral.—

165 (1) Securities eligible to be pledged as collateral by  
166 qualified public depositories ~~banks and savings associations~~  
167 shall be limited to:

168 (a) Direct obligations of the United States Government.

169 (b) Obligations of any federal agency that are fully  
170 guaranteed as to payment of principal and interest by the United  
171 States Government.

172 (c) Obligations of the following federal agencies:

173 1. Farm credit banks.

174 2. Federal land banks.

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- 175 3. The Federal Home Loan Bank and its district banks.
- 176 4. Federal intermediate credit banks.
- 177 5. The Federal Home Loan Mortgage Corporation.
- 178 6. The Federal National Mortgage Association.
- 179 7. Obligations guaranteed by the Government National
- 180 Mortgage Association.

181 (d) General obligations of a state of the United States, or  
 182 of Puerto Rico, or of a political subdivision or municipality  
 183 thereof.

184 (e) Obligations issued by the Florida State Board of  
 185 Education under authority of the State Constitution or  
 186 applicable statutes.

187 (f) Tax anticipation certificates or warrants of counties  
 188 or municipalities having maturities not exceeding 1 year.

189 (g) Public housing authority obligations.

190 (h) Revenue bonds or certificates of a state of the United  
 191 States or of a political subdivision or municipality thereof.

192 (i) Corporate bonds of any corporation that is not an  
 193 affiliate or subsidiary of the qualified public depository.

194 Section 8. Paragraph (e) of subsection (1) of section  
 195 280.16, Florida Statutes, is amended to read:

196 280.16 Requirements of qualified public depositories;  
 197 confidentiality.—

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

200 (e) Submit to the Chief Financial Officer not later than  
 201 the date required to be filed with the federal agency:

- 202 1. A copy of the quarterly Consolidated Reports of
- 203 Condition and Income, and any amended reports, required by the

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204 Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if  
205 such depository is a bank; ~~or~~

206 2. A copy of the Thrift Financial Report, and any amended  
207 reports, required to be filed with the Office of Thrift  
208 Supervision if such depository is a savings and loan  
209 association; or

210 3. A copy of the National Credit Union Administration 5300  
211 Call Report, and any amended reports, required to be filed with  
212 the National Credit Union Association if such depository is a  
213 credit union.

214 Section 9. Paragraph (b) of subsection (4) of section  
215 280.17, Florida Statutes, is amended to read:

216 280.17 Requirements for public depositors; notice to public  
217 depositors and governmental units; loss of protection.—In  
218 addition to any other requirement specified in this chapter,  
219 public depositors shall comply with the following:

220 (4) Whenever public deposits are in a qualified public  
221 depository that has been declared to be in default or insolvent,  
222 each public depositor shall:

223 (b) Submit to the Chief Financial Officer for each public  
224 deposit, within 30 days after the date of official notification  
225 from the Chief Financial Officer, the following:

226 1. A claim form and agreement, as prescribed by the Chief  
227 Financial Officer, executed under oath, accompanied by proof of  
228 authority to execute the form on behalf of the public depositor.

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

231 3. Evidence of the insurance afforded the deposit pursuant  
232 to the Federal Deposit Insurance Act or the Federal Credit Union

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233 Act, as appropriate.

234 Section 10. This act shall take effect July 1, 2012.