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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
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The Committee on Banking and Insurance (Hutson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 99 - 213

and insert:

Section 2. Section 280.042, Florida Statutes, is created to read:

280.042 Conditions for designating credit unions as qualified public depositories; withdrawal by the Chief Financial Officer from a collateral agreement and return of deposits; limit on public deposits.-



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11       (1) The Chief Financial Officer may not designate a credit  
12 union as a qualified public depository as defined under s.  
13 280.02, unless, at the time the credit union submits its  
14 agreement of contingent liability and its collateral agreement:

15       (a) The credit union submits a signed statement from a  
16 public official indicating that if the credit union is  
17 designated as a qualified public depository, the public official  
18 intends to deposit more than \$250,000 of public funds with the  
19 credit union; and

20       (b) At least four other credit unions have each submitted  
21 an agreement of contingent liability, a collateral agreement,  
22 and a signed statement from a public official indicating that if  
23 the credit union is designated as a qualified public depository,  
24 the public official intends to deposit more than \$250,000 of  
25 public funds with the credit union.

26       (2) The Chief Financial Officer must withdraw from a  
27 collateral agreement previously entered into with a credit union  
28 if fewer than five credit unions are designated as qualified  
29 public depositories during any period of 90 calendar days or  
30 longer.

31       (3) A credit union that is a party to a collateral  
32 agreement from which the Chief Financial Officer withdraws in  
33 accordance with subsection (2) may no longer be designated as a  
34 qualified public depository. Within 10 business days after the  
35 Chief Financial Officer notifies the credit union that the Chief  
36 Financial Officer has withdrawn from the collateral agreement,  
37 the credit union must return all public deposits that the credit  
38 union holds to the public official who deposited the funds. The  
39 notice provided for in this subsection may be sent to a credit



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40 union by regular mail or by e-mail.

41 (4) The Chief Financial Officer may limit the amount of  
42 public deposits which any credit union may hold in order to  
43 ensure that no single credit union holds an amount of public  
44 deposits which might adversely affect the integrity of the  
45 public deposits program.

46 Section 3. Section 280.07, Florida Statutes, is amended to  
47 read:

48 280.07 Mutual responsibility and contingent liability.—

49 (1) Any bank, savings bank, or savings association that is  
50 designated as a qualified public depository and that is not  
51 insolvent shall guarantee public depositors against loss caused  
52 by the default or insolvency of other banks, savings banks, or  
53 savings associations designated as qualified public  
54 depositories.

55 (2) Any credit union that is designated as a qualified  
56 public depository and that is not insolvent shall guarantee  
57 public depositors against loss caused by the default or  
58 insolvency of other credit unions designated as qualified public  
59 depositories.

60  
61 Each qualified public depository shall execute a form prescribed  
62 by the Chief Financial Officer for such guarantee which must  
63 ~~shall~~ be approved by the board of directors and ~~shall~~ become an  
64 official record of the institution.

65 Section 4. Subsections (1) and (3) of section 280.08,  
66 Florida Statutes, are amended to read:

67 280.08 Procedure for payment of losses.—When the Chief  
68 Financial Officer determines that a default or insolvency has



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69 occurred, he or she shall provide notice as required in s.  
70 280.085 and implement the following procedures:

71 (1) The Division of Treasury, in cooperation with the  
72 Office of Financial Regulation of the Financial Services  
73 Commission or the receiver of the qualified public depository in  
74 default, shall ascertain the amount of funds of each public  
75 depositor on deposit at such depository and the amount of  
76 deposit or share insurance applicable to such deposits.

77 (3) (a) The loss to public depositors shall be satisfied,  
78 insofar as possible, first through any applicable deposit or  
79 share insurance and then through demanding payment under letters  
80 of credit or the sale of collateral pledged or deposited by the  
81 defaulting depository. The Chief Financial Officer may assess  
82 qualified public depositories as provided in paragraph (b),  
83 subject to the segregation of contingent liability in s. 280.07,  
84 for the total loss if the demand for payment or sale of  
85 collateral cannot be accomplished within 7 business days.

86 (b) The Chief Financial Officer shall provide coverage of  
87 any remaining loss by assessment against the other qualified  
88 public depositories. The Chief Financial Officer shall determine  
89 such assessment for each qualified public depository by  
90 multiplying the total amount of any remaining loss to all public  
91 depositors by a percentage which represents the average monthly  
92 balance of public deposits held by each qualified public  
93 depository during the previous 12 months divided by the total  
94 average monthly balances of public deposits held by all  
95 qualified public depositories, excluding the defaulting  
96 depository, during the same period. The assessment calculation  
97 must ~~shall~~ be computed to six decimal places.



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98 Section 5. Section 280.09, Florida Statutes, is amended to  
99 read:

100 280.09 Public Deposits Trust Fund.—

101 (1) In order to facilitate the administration of this  
102 chapter, there is created the Public Deposits Trust Fund,  
103 hereafter in this section designated as "the fund." The proceeds  
104 from the sale of securities or draw on letters of credit held as  
105 collateral or from any assessment pursuant to s. 280.08 must  
106 ~~shall~~ be deposited into the fund. The Chief Financial Officer  
107 must segregate and separately account for any collateral  
108 proceeds, assessments, or administrative penalties attributable  
109 to a credit union from any collateral proceeds, assessments, or  
110 administrative penalties attributable to any bank, savings bank,  
111 or savings association. Any administrative penalty collected  
112 pursuant to this chapter shall be deposited into the Treasury  
113 Administrative and Investment Trust Fund.

114 (2) The Chief Financial Officer is authorized to pay any  
115 losses to public depositors from the fund, subject to the  
116 limitations provided in subsection (1), and there are hereby  
117 appropriated from the fund such sums as may be necessary from  
118 time to time to pay the losses. The term "losses," for purposes  
119 of this chapter, shall also include losses of interest or other  
120 accumulations to the public depositor as a result of penalties  
121 for early withdrawal required by Depository Institution  
122 Deregulatory Commission Regulations or applicable successor  
123 federal laws or regulations because of suspension or  
124 disqualification of a qualified public depository by the Chief  
125 Financial Officer pursuant to s. 280.05 or because of withdrawal  
126 from the public deposits program pursuant to s. 280.11. In that



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127 event, the Chief Financial Officer is authorized to assess  
128 against the suspended, disqualified, or withdrawing public  
129 depository, in addition to any amount authorized by any other  
130 provision of this chapter, an administrative penalty equal to  
131 the amount of the early withdrawal penalty and to pay that  
132 amount over to the public depositor as reimbursement for such  
133 loss. Any money in the fund estimated not to be needed for  
134 immediate cash requirements shall be invested pursuant to s.  
135 17.61.

136 Section 6. Paragraph (a) of subsection (3) of section  
137 280.03, Florida Statutes, is amended to read:

138 280.03 Public deposits to be secured; prohibitions;  
139 exemptions.-

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

142 (a) Public deposits deposited in a bank, credit union, or  
143 savings association by a trust department or trust company which  
144 are fully secured under trust business laws.

145 Section 7. Subsection (11) of section 280.05, Florida  
146 Statutes, is amended to read:

147 280.05 Powers and duties of the Chief Financial Officer.-In  
148 fulfilling the requirements of this act, the Chief Financial  
149 Officer has the power to take the following actions he or she  
150 deems necessary to protect the integrity of the public deposits  
151 program:

152 (11) Sell securities for the purpose of paying losses to  
153 public depositors not covered by deposit or share insurance.

154 Section 8. Subsection (1) of section 280.052, Florida  
155 Statutes, is amended to read:



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156 280.052 Order of suspension or disqualification;  
157 procedure.—

158 (1) The suspension or disqualification of a bank, credit  
159 union, or savings association as a qualified public depository  
160 must be by order of the Chief Financial Officer and must be  
161 mailed to the qualified public depository by registered or  
162 certified mail.

163 Section 9. Paragraph (c) of subsection (1) and paragraph  
164 (c) of subsection (2) of section 280.053, Florida Statutes, are  
165 amended to read:

166 280.053 Period of suspension or disqualification;  
167 obligations during period; reinstatement.—

168 (1)

169 (c) Upon expiration of the suspension period, the bank,  
170 credit union, or savings association may, by order of the Chief  
171 Financial Officer, be reinstated as a qualified public  
172 depository, unless the cause of the suspension has not been  
173 corrected or the bank, credit union, or savings association is  
174 otherwise not in compliance with this chapter or any rule  
175 adopted pursuant to this chapter.

176 (2)

177 (c) Upon expiration of the disqualification period, the  
178 bank, credit union, or savings association may reapply for  
179 qualification as a qualified public depository. If a  
180 disqualified bank, credit union, or savings association is  
181 purchased or otherwise acquired by new owners, it may reapply to  
182 the Chief Financial Officer to be a qualified public depository  
183 prior to the expiration date of the disqualification period.  
184 Redesignation as a qualified public depository may occur only



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185 after the Chief Financial Officer has determined that all  
186 requirements for holding public deposits under the law have been  
187 met.

188 Section 10. Section 280.055, Florida Statutes, is amended  
189 to read:

190 280.055 Cease and desist order; corrective order;  
191 administrative penalty.—

192 (1) The Chief Financial Officer may issue a cease and  
193 desist order and a corrective order upon determining that:

194 (a) A qualified public depository has requested and  
195 obtained a release of pledged collateral without approval of the  
196 Chief Financial Officer;

197 (b) A bank, credit union, savings association, or other  
198 financial institution is holding public deposits without a  
199 certificate of qualification issued by the Chief Financial  
200 Officer;

201 (c) A qualified public depository pledges, deposits, or  
202 arranges for the issuance of unacceptable collateral;

203 (d) A custodian has released pledged collateral without  
204 approval of the Chief Financial Officer;

205 (e) A qualified public depository or a custodian has not  
206 furnished to the Chief Financial Officer, when the Chief  
207 Financial Officer requested, a power of attorney or bond power  
208 or bond assignment form required by the bond agent or bond  
209 trustee for each issue of registered certificated securities  
210 pledged and registered in the name, or nominee name, of the  
211 qualified public depository or custodian; or

212 (f) A qualified public depository; a bank, credit union,  
213 savings association, or other financial institution; or a





214 | custodian has committed any other violation of this chapter or  
215 | any rule adopted pursuant to this chapter that the Chief  
216 | Financial Officer determines may be remedied by a cease and  
217 | desist order or corrective order.

218 |       (2) Any qualified public depository or other bank, credit  
219 | union, savings association, or financial institution or  
220 | custodian that violates a cease and desist order or corrective  
221 | order of the Chief Financial Officer is subject to an  
222 | administrative penalty not exceeding \$1,000 for each violation  
223 | of the order. Each day the violation of the order continues  
224 | constitutes a separate violation.

225 |  
226 | ===== T I T L E   A M E N D M E N T =====

227 | And the title is amended as follows:

228 |       Delete lines 6 - 12

229 | and insert:

230 |       Security for Public Deposits Act; creating s. 280.042,  
231 |       F.S.; specifying conditions that must be met before  
232 |       the Chief Financial Officer may designate a credit  
233 |       union as a qualified public depository; requiring the  
234 |       Chief Financial Officer to withdraw from a collateral  
235 |       agreement with a credit union under certain  
236 |       circumstances; providing construction and notice and  
237 |       public deposit return requirements after such  
238 |       withdrawal; authorizing the Chief Financial Officer to  
239 |       limit, for a certain purpose, the amount of public  
240 |       deposits a credit union may hold; amending s. 280.07,  
241 |       F.S.; specifying the mutual responsibility and  
242 |       contingent liability of certain credit unions



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243 designated as qualified public depositories;  
244 conforming a provision to changes made by the act;  
245 amending s. 280.08, F.S.; conforming provisions to  
246 changes made by the act; providing that certain  
247 assessments by the Chief Financial Officer upon  
248 qualified public depositories are subject to certain  
249 segregation of contingent liability provisions;  
250 amending s. 280.09, F.S.; requiring the Chief  
251 Financial Officer, in administering the Public  
252 Deposits Trust Fund, to segregate and separately  
253 account for certain proceeds, assessments, or  
254 penalties attributable to a credit union from those  
255 attributable to a bank, savings bank, or savings  
256 association; providing that payment of losses is  
257 subject to such limitations; amending ss. 280.03,  
258 280.05, 280.052, 280.053, 280.055, 280.085, 280.10,  
259 280.13, and 280.17,