

**SENATE AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2901
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

June 21

1 On page 1 of the printed A-engrossed bill, delete line 5 and insert “and 295.185; appropriating
2 money; and limiting expenditures.”.

3 On page 9, after line 44, insert:

4 **“SECTION 15a. If House Bill 3265 becomes law, section 15 of this 2007 Act (amending ORS
5 295.005) is repealed and ORS 295.005, as amended by section 123, chapter __, Oregon Laws
6 2007 (Enrolled House Bill 3265), is amended to read:**

7 “295.005. As used in ORS 295.005 to 295.165, unless the context requires otherwise:

8 “[*(1) ‘Certificate of participation’ or ‘certificate’ means a nonnegotiable document issued by a pool
9 manager to a public official.*]

10 **“(1) ‘Adequately capitalized’ means a bank depository that is classified as adequately
11 capitalized by its primary federal regulatory authority.**

12 **“(2) ‘Bank depository’ means an insured institution or trust company that:**

13 **“(a) Maintains a head office or branch in this state in the capacity of an insured insti-
14 tution or trust company; and**

15 **“(b) Complies with ORS 295.008.**

16 **“(3) ‘Business day’ means any day other than a federal or State of Oregon legal holiday
17 or a day on which offices of the State of Oregon are otherwise authorized by law to remain
18 closed.**

19 **“(4) ‘Credit union depository’ means a credit union as defined in ORS 723.006 or a federal
20 credit union if:**

21 **“(a) The shares and deposits of the credit union or federal credit union are insured by
22 the National Credit Union Share Insurance Fund; and**

23 **“(b) The credit union or federal credit union maintains a head office or branch in this
24 state in the capacity of a credit union or federal credit union.**

25 “[*(2) (5) ‘Custodian bank’ or ‘custodian’ means one of the following institutions designated by
26 the bank depository [bank] for its own account:*

27 “[*(a) The Federal Reserve Bank designated to serve this state, or any branch of that bank;*]

28 “[*(b) (a) The Federal Home Loan Bank designated to serve this state, or any branch of that
29 bank; or*

30 “[*(c) (b) Any insured institution or trust company[, as those terms are defined in ORS 706.008,]*
31 that:

32 **“(A) Is authorized to accept deposits or transact trust business in this state; [and that]**

33 **“(B) Complies with ORS 295.008; and**

34 **“(C) Has been approved by the State Treasurer to serve as a custodian bank, if the State**

1 **Treasurer has approved custodians under ORS 295.008.**

2 “[(d) *The fiscal agency of the State of Oregon, duly appointed and acting as such agency pursuant*
3 *to section 21 of this 2007 Act.*]

4 “[(3)] **(6)** ‘Custodian’s receipt’ or ‘receipt’ means a document issued by a custodian bank [*to a*
5 *pool manager*] describing the securities deposited with it by a **bank** depository [*bank*] to secure
6 public fund deposits.

7 “[(4)] **(7)** [*‘Depository bank’ or*] ‘Depository’ means **a bank depository or a credit union de-**
8 **pository.** [*an insured institution or trust company, as those terms are defined in ORS 706.008, a credit*
9 *union, as defined in ORS 723.006, the shares and deposits of which are insured by the National Credit*
10 *Union Share Insurance Fund, or a federal credit union, if the institution, trust company or credit un-*
11 *ion.*:]

12 “[(a) *Maintains a head office or a branch in this state in the capacity of an insured institution,*
13 *trust company, credit union or federal credit union; and*]

14 “[(b) *In the case of an insured institution or trust company, complies with ORS 295.008.*]

15 “[(5) *‘Pool manager’ means:*]

16 “[(a) *The State Treasurer;*]

17 “[(b) *Any insured institution or trust company, as those terms are defined in ORS 706.008, a credit*
18 *union, as defined in ORS 723.006, the shares and deposits of which are insured by the National Credit*
19 *Union Share Insurance Fund, or a federal credit union, if the institution, trust company or credit un-*
20 *ion.*:]

21 “[(A) *Is authorized to accept deposits or transact trust business in this state; and*]

22 “[(B) *In the case of an insured institution or trust company, complies with ORS 295.008;*]

23 “[(c) *The Federal Reserve Bank designated to serve this state, or any branch of that bank; or*]

24 “[(d) *The Federal Home Loan Bank designated to serve this state, or any branch of that bank.*]

25 **(8)** ‘**Financial institution outside this state**’ means **a financial institution, as defined in**
26 **ORS 706.008, that is not an extranational institution, as defined in ORS 706.008, and is not a**
27 **bank depository or credit union depository, as defined in this section.**

28 **(9)** ‘**Insured institution**’ means **an insured institution as defined in ORS 706.008.**

29 **(10)** ‘**Loss**’ means **the issuance of an order by a regulatory or supervisory authority or**
30 **a court of competent jurisdiction:**

31 **(a)** **Restraining a bank depository from making payments of deposit liabilities; or**

32 **(b)** **Appointing a receiver for a public depository.**

33 **(11)** ‘**Maximum liability**’ of a bank depository on any given date means **a sum equal to:**

34 **(a)** **For a well capitalized bank depository, 10 percent of the greater of:**

35 **(A)** **All public funds held by the bank depository, as shown on the most recent treasurer**
36 **report;**

37 **(B)** **The average of the balances of public funds held by the bank depository, as shown**
38 **on the last four immediately preceding treasurer reports; or**

39 **(C)** **An amount otherwise prescribed in ORS 295.005 to 295.165.**

40 **(b)** **For an adequately capitalized bank depository, 25 percent of the greater of:**

41 **(A)** **All public funds held by the bank depository, as shown on the most recent treasurer**
42 **report;**

43 **(B)** **The average of the balances of public funds held by the bank depository, as shown**
44 **on the last four immediately preceding treasurer reports; or**

45 **(C)** **An amount otherwise prescribed in ORS 295.005 to 295.165.**

1 “(c) For an undercapitalized bank depository, 110 percent of the greater of:
2 “(A) All public funds held by the bank depository; or
3 “(B) The average of the balances of public funds held by the bank depository, as shown
4 on the last four immediately preceding treasurer reports.
5 “(12) ‘Net worth’ of a bank depository means:
6 “(a) The equity capital of the bank depository, as shown on the immediately preceding
7 report of condition and income, and may include capital notes and debentures that are sub-
8 ordinate to the interests of depositors; or
9 “(b) An amount of equity capital designated by the State Treasurer.
10 “(13) ‘Pledge agreement’ means a written agreement among an insured institution or
11 trust company, the State Treasurer and a custodian that pledges the securities deposited by
12 the insured institution or trust company with the custodian as collateral for deposits of
13 public funds held by the insured institution or trust company. The agreement must be ap-
14 proved by the board of directors or loan committee of the insured institution or trust com-
15 pany and must be continuously maintained as a written record of the insured institution or
16 trust company.
17 “[(6)] (14) ‘Public funds’ or ‘funds’ means funds under the control or in the custody of a public
18 official by virtue of office.
19 “(15) ‘Public official’ means each officer or employee of this state or any agency, political
20 subdivision or public or municipal corporation thereof, or any housing authority, who by law
21 is made the custodian of or has control of any public funds.
22 “(16) ‘Report of condition and income’ means the quarterly report submitted to a bank
23 depository’s primary federal regulatory authority.
24 “[(7)] (17) ‘Security’ or ‘securities’ means:
25 “(a) Obligations of the United States, including those of its agencies and instrumentalities **and**
26 **of government sponsored enterprises;**
27 “(b) Obligations of the International Bank for Reconstruction and Development;
28 “(c) Bonds of any state of the United States:
29 “(A) That are rated in one of the four highest grades by a recognized investment service or-
30 ganization that has been engaged regularly and continuously for a period of not less than 10 years
31 in rating state and municipal bonds; or
32 “(B) Having once been so rated are ruled to be eligible securities for the purposes of ORS
33 295.005 to 295.165, notwithstanding the loss of such rating;
34 “(d) Bonds of any county, city, school district, port district or other public body in the United
35 States payable from **or secured by** ad valorem taxes [*levied generally on substantially all property*
36 *within the issuing body*] and that meet the rating requirement or are ruled to be eligible securities
37 as provided in paragraph (c) of this subsection;
38 “(e) Bonds of any county, city, school district, port district or other public body issued pursuant
39 to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county
40 or city within the State of Oregon, if the issuing body has not been in default with respect to the
41 payment of principal or interest on any of its bonds within the preceding 10 years or during the
42 period of its existence if that is less than 10 years;
43 “(f) **With the permission of the State Treasurer and in accordance with rules adopted by**
44 **the State Treasurer, loans made to any county, city, school district, port district or other**
45 **public body in the State of Oregon, if the borrower has not been in default with respect to**

1 **the payment of principal or interest on any of its loans within the preceding 10 years or**
2 **during the period of its existence if that is less than 10 years;**

3 **“(f) (g) With the permission of the State Treasurer and in accordance with rules adopted**
4 **by the State Treasurer, bond anticipation notes issued, sold or assumed by an authority under**
5 **ORS 441.560;**

6 **“(g) One-family to four-family housing mortgage loan notes related to property situated in the State**
7 **of Oregon, which are owned by a depository bank, no payment on which is more than 90 days past**
8 **due, and which are eligible collateral for loans from the Federal Reserve Bank of San Francisco under**
9 **section 10(b) of the Federal Reserve Act and regulations thereunder;]**

10 **“(h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting**
11 **the direct and general obligation of a federal home loan bank or Federal Reserve bank;**

12 **“(i) Debt obligations of domestic corporations that are rated in one of the three highest grades**
13 **by a recognized investment service organization that has been engaged regularly and continuously**
14 **for a period of not less than 10 years in rating corporate debt obligations; and**

15 **“(j) Collateralized mortgage obligations and real estate mortgage investment conduits that are**
16 **rated in one of the two highest grades by a recognized investment service organization that has been**
17 **engaged regularly and continuously for a period of not less than 10 years in rating corporate debt**
18 **obligations; and].**

19 **“(k) One-family to four-family housing mortgages that have been secured by means of a guarantee**
20 **as to full repayment of principal and interest by an agency of the United States Government, including**
21 **the Government National Mortgage Association, the Federal National Mortgage Association and the**
22 **Federal Home Loan Mortgage Corporation.]**

23 **“(8) ‘Public official’ means each officer or employee of this state or any agency, political subdivi-**
24 **sion or public or municipal corporation thereof who by law is made the custodian of or has control of**
25 **any public funds.]**

26 **“(18) ‘Treasurer report’ means a written report signed or authenticated by an officer of**
27 **a bank depository setting forth as of the close of business on a specified date:**

28 **“(a) The total amount of public funds on deposit with the bank depository;**

29 **“(b) The net worth of the bank depository;**

30 **“(c) The amount and nature of eligible collateral then on deposit with its custodian to**
31 **collateralize the bank depository’s public funds deposits; and**

32 **“(d) The identity of its custodian.**

33 **“(19) ‘Treasurer report due date’ means a date not less than 10 business days after the**
34 **date a bank depository’s report of condition and income is due to be submitted to its federal**
35 **regulatory authority.**

36 **“(20) ‘Trust company’ means a trust company as defined in ORS 706.008.**

37 **“(21) ‘Undercapitalized’ means a bank depository that is classified as undercapitalized by**
38 **its primary federal regulatory authority.**

39 **“(9) (22) ‘Value’ means the current market value of securities.**

40 **“(23) ‘Well capitalized’ means a bank depository that is classified as well capitalized by**
41 **its primary federal regulatory authority.”.**

42 **On page 21, delete lines 13 through 35 and insert:**

43 **“SECTION 33. On or before July 1, 2008, each insured institution and trust company that**
44 **wishes to act as a bank depository under ORS 295.005 to 295.165 from and after July 1, 2008,**
45 **shall file with the State Treasurer an initial written report signed or authenticated by an**

1 officer of the insured institution or trust company, together with an executed copy of its
2 pledge agreement. The report shall set forth:

3 “(1) The estimated total amount of public funds that will be on deposit with the insured
4 institution or trust company as of July 1, 2008;

5 “(2) The estimated net worth of the insured institution or trust company on July 1, 2008;

6 “(3) The amount and nature of the collateral that will be deposited with its custodian to
7 collateralize the public funds deposits; and

8 “(4) The identity of its custodian.

9 “SECTION 34. Notwithstanding any other law limiting expenditures of the State Treas-
10 urer for the payment of expenses from fees, moneys or other revenues, including Miscella-
11 neous Receipts, but excluding lottery funds and federal funds, for the biennium beginning
12 July 1, 2007, the limitation on expenditures for the State Treasurer established by section 1
13 (1), chapter 109, Oregon Laws 2007 (Enrolled House Bill 5049), is increased by \$86,786 for the
14 purpose of carrying out the provisions of sections 1 to 14 of this 2007 Act and the amend-
15 ments to ORS 182.470, 284.365, 294.847, 295.005, 295.008, 295.015, 295.018, 295.025, 295.027,
16 295.035, 295.055, 295.115, 295.205, 377.840, 576.375, 706.720, 708A.535 and 711.410 by sections 15
17 to 32 of this 2007 Act.

18 “SECTION 35. ORS 295.045, 295.065, 295.085, 295.105, 295.125, 295.175 and 295.185 are re-
19 pealed.

20 “SECTION 36. Sections 1 to 14 of this 2007 Act, the amendments to ORS 182.470, 284.365,
21 294.847, 295.005, 295.008, 295.015, 295.018, 295.025, 295.027, 295.035, 295.055, 295.115, 295.205,
22 377.840, 576.375, 706.720, 708A.535 and 711.410 by sections 15 to 32 of this 2007 Act and the
23 repeal of ORS 295.045, 295.065, 295.085, 295.105, 295.125, 295.175 and 295.185 by section 35 of this
24 2007 Act become operative July 1, 2008.

25 “SECTION 37. The provisions of sections 1 to 14 of this 2007 Act and the amendments to
26 ORS 182.470, 284.365, 294.847, 295.005, 295.008, 295.015, 295.018, 295.025, 295.027, 295.035, 295.055,
27 295.115, 295.205, 377.840, 576.375, 706.720, 708A.535 and 711.410 by sections 15 to 32 of this 2007
28 Act apply to all public funds on deposit on or after July 1, 2008.

29 “SECTION 38. If House Bill 3265 becomes law, section 34 of this 2007 Act is amended to read:

30 “Sec. 34. Notwithstanding any other law limiting expenditures of the State Treasurer for the
31 payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but
32 excluding lottery funds and federal funds, for the biennium beginning July 1, 2007, the limitation on
33 expenditures for the State Treasurer established by section 1 (1), chapter 109, Oregon Laws 2007
34 (Enrolled House Bill 5049), is increased by \$86,786 for the purpose of carrying out the provisions
35 of sections 1 to 14 of this 2007 Act and the amendments to ORS 182.470, 284.365, 294.847, 295.005,
36 295.008, 295.015, 295.018, 295.025, 295.027, 295.035, 295.055, 295.115, 295.205, 377.840, 576.375, 706.720,
37 708A.535 and 711.410 by sections [15] 15a to 32 of this 2007 Act.

38 “SECTION 39. If House Bill 3265 becomes law, section 36 of this 2007 Act is amended to read:

39 “Sec. 36. Sections 1 to 14 of this 2007 Act, the amendments to ORS 182.470, 284.365, 294.847,
40 295.005, 295.008, 295.015, 295.018, 295.025, 295.027, 295.035, 295.055, 295.115, 295.205, 377.840, 576.375,
41 706.720, 708A.535 and 711.410 by sections [15] 15a to 32 of this 2007 Act and the repeal of ORS
42 295.045, 295.065, 295.085, 295.105, 295.125, 295.175 and 295.185 by section 35 of this 2007 Act become
43 operative July 1, 2008.

44 “SECTION 40. If House Bill 3265 becomes law, section 37 of this 2007 Act is amended to read:

45 “Sec. 37. The provisions of sections 1 to 14 of this 2007 Act and the amendments to ORS

1 182.470, 284.365, 294.847, 295.005, 295.008, 295.015, 295.018, 295.025, 295.027, 295.035, 295.055, 295.115,
2 295.205, 377.840, 576.375, 706.720, 708A.535 and 711.410 by sections [15] **15a** to 32 of this 2007 Act
3 apply to all public funds on deposit on or after July 1, 2008.”.

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