

Senate Bill 600

Sponsored by Senator METSGER (at the request of State Treasurer Ben Westlund)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits credit union depositories to act as depositories for public funds on basis similar to that of bank depositories.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public funds; creating new provisions; amending ORS 295.001, 295.002, 295.004, 295.006,
3 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061,
4 295.071, 295.073, 295.081, 295.084, 295.091, 295.106, 295.108, 295.205, 576.375 and 711.410; and de-
5 claring an emergency.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1.** ORS 295.001 is amended to read:

8 295.001. As used in ORS 295.001 to 295.108, unless the context requires otherwise:

9 (1) "Adequately capitalized" means a bank depository **or credit union depository** that is clas-
10 sified as adequately capitalized by [*its*] **the depository's** primary federal regulatory authority.

11 (2) "Bank depository" means an insured institution or trust company that:

12 (a) Maintains a head office or branch in this state in the capacity of an insured institution or
13 trust company; and

14 (b) Complies with ORS 295.008.

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

18 (4) "Credit union depository" means a credit union as defined in ORS 723.006 or a federal credit
19 union if:

20 (a) The shares and deposits of the credit union or federal credit union are insured by the Na-
21 tional Credit Union Share Insurance Fund; and

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

24 (5) [*"Custodian bank" or*] "Custodian" means one of the following institutions designated by
25 [*the*] **a bank depository or credit union depository** for [*its*] **the depository's** own account:

26 (a) The Federal Home Loan Bank designated to serve this state, or any branch of [*that bank*]
27 **the Federal Home Loan Bank**; or

28 (b) [*Any*] **An** insured institution, [*or*] trust company **or credit union** that:

29 (A) Is authorized to accept deposits or transact trust business in this state;

30 (B) Complies with ORS 295.008; and

31 (C) Has been approved by the State Treasurer to serve as a custodian [*bank*], if the State

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 Treasurer has approved custodians under ORS 295.008.

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

5 (7) “Depository” means a bank depository or a credit union depository.

6 (8) “Financial institution outside this state” means a financial institution, as defined in ORS
7 706.008, that is not an extranational institution, as defined in ORS 706.008, and is not a bank de-
8 pository or credit union depository, as defined in this section.

9 (9) “Insured institution” means an insured institution as defined in ORS 706.008.

10 (10) “Loss” means the issuance of an order by a regulatory or supervisory authority or a court
11 of competent jurisdiction:

12 (a) Restraining a bank depository **or credit union depository** from making payments of deposit
13 liabilities; or

14 (b) Appointing a receiver for a public depository.

15 (11) “Maximum liability” of a bank depository **or credit union depository** on any given date
16 means a sum equal to:

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

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

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

21 (C) An amount otherwise prescribed in ORS 295.001 to 295.108.

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

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

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

26 (C) An amount otherwise prescribed in ORS 295.001 to 295.108.

27 (c) For an undercapitalized [*bank*] depository, 110 percent of the greater of:

28 (A) All public funds held by the [*bank*] depository; or

29 (B) The average of the balances of public funds held by the [*bank*] depository, as shown on the
30 last four immediately preceding treasurer reports.

31 (12) “Net worth” of a bank depository **or credit union depository** means:

32 (a) The equity capital of the [*bank*] depository, as shown on the immediately preceding report
33 of condition and income, and may include capital notes and debentures that are subordinate to the
34 interests of depositors; or

35 (b) An amount of equity capital designated by the State Treasurer.

36 (13) “Pledge agreement” means a written agreement among an insured institution, [*or*] trust
37 company **or credit union**, the State Treasurer and a custodian that pledges the securities deposited
38 by the insured institution, [*or*] trust company **or credit union** with the custodian as collateral for
39 deposits of public funds held by the insured institution, [*or*] trust company **or credit union**. The
40 agreement must be approved by the board of directors or loan committee of the insured
41 institution, [*or*] trust company **or credit union** and must be continuously maintained as a written
42 record of the insured institution, [*or*] trust company **or credit union**.

43 (14) “Public funds” or “funds” means funds under the control or in the custody of a public offi-
44 cial by virtue of office.

45 (15) “Public official” means [*each*] **an** officer or employee of this state or [*any*] **an** agency, poli-

1 tical subdivision or public or municipal corporation *[thereof]* **of this state**, or *[any]* **a** housing au-
 2 thority, *[who]* **that** by law is *[made]* the custodian of or has control of *[any]* public funds.

3 (16) “Report of condition and income” means the quarterly report submitted to a bank deposi-
 4 tory’s **or credit union depository’s** primary federal regulatory authority.

5 (17) “Security” or “securities” means:

6 (a) Obligations of the United States, including those of *[its]* **the** agencies and instrumentalities
 7 and *[of]* government sponsored enterprises **of the United States**;

8 (b) Obligations of the International Bank for Reconstruction and Development;

9 (c) Bonds of *[any]* **a** state of the United States:

10 (A) That are rated in one of the four highest grades by a recognized investment service organ-
 11 ization that has been engaged regularly and continuously for a period of not less than 10 years in
 12 rating state and municipal bonds; or

13 (B) Having once been *[so]* rated **in accordance with subparagraph (A) of this paragraph** are
 14 ruled to be eligible securities for the purposes of ORS 295.001 to 295.108, notwithstanding the loss
 15 of *[such]* **the** rating;

16 (d) Bonds of *[any]* **a** county, city, school district, port district or other public body in the United
 17 States payable from or secured by ad valorem taxes and that meet the rating requirement or are
 18 ruled to be eligible securities as provided in paragraph (c) of this subsection;

19 (e) Bonds of *[any]* **a** county, city, school district, port district or other public body issued pur-
 20 suant to the Constitution or statutes of the State of Oregon or the charter or ordinances of *[any]*
 21 **a** county or city within the State of Oregon, if the issuing **public** body has not been in default with
 22 respect to the payment of principal or interest on any of *[its]* **the public body’s** bonds within the
 23 preceding 10 years or during the period of *[its]* **the public body’s** existence if *[that is less]* **the**
 24 **public body has existed for fewer** than 10 years;

25 (f) With the permission of the State Treasurer and in accordance with rules adopted by the State
 26 Treasurer, loans made to *[any]* **a** county, city, school district, port district or other public body in
 27 the State of Oregon, if the borrower has not been in default with respect to the payment of principal
 28 or interest on any of *[its]* **the borrower’s** loans within the preceding 10 years or during the period
 29 of *[its]* **the borrower’s** existence if that is less than 10 years;

30 (g) With the permission of the State Treasurer and in accordance with rules adopted by the
 31 State Treasurer, bond anticipation notes issued, sold or assumed by an authority under ORS 441.560;

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

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

37 (j) Collateralized mortgage obligations and real estate mortgage investment conduits that are
 38 rated in one of the two highest grades by a recognized investment service organization that has been
 39 engaged regularly and continuously for a period of not less than 10 years in rating corporate debt
 40 obligations.

41 (18) “Treasurer report” means a written report signed or authenticated by an officer of a bank
 42 depository **or credit union depository** setting forth as of the close of business on a specified date:

43 (a) The total amount of public funds on deposit with the *[bank]* depository;

44 (b) The net worth of the *[bank]* depository;

45 (c) The amount and nature of eligible collateral then on deposit with *[its]* **the depository’s**

1 custodian to collateralize the [*bank*] depository's public funds deposits; and

2 (d) The identity of [*its*] **the depository's** custodian.

3 (19) "Treasurer report due date" means a date not less than 10 business days after the date a
4 bank depository's **or credit union depository's** report of condition and income is due to be sub-
5 mitted to [*its*] **the depository's** federal regulatory authority.

6 (20) "Trust company" means a trust company as defined in ORS 706.008.

7 (21) "Undercapitalized" means a bank depository **or credit union depository** that is classified
8 as undercapitalized by [*its*] **the depository's** primary federal regulatory authority.

9 (22) "Value" means the current market value of securities.

10 (23) "Well capitalized" means a bank depository **or credit union depository** that is classified
11 as well capitalized by [*its*] **the depository's** primary federal regulatory authority.

12 **SECTION 2.** ORS 295.002 is amended to read:

13 295.002. (1) [*Any*] **A** public official may retain undeposited such reasonable cash working fund
14 as is fixed by the governing body of the political subdivision or public corporation for which the
15 public official acts. Except to the extent of [*such*] **the** cash working fund, [*each*] **a** public official
16 shall deposit public funds in the **public official's** custody or control [*of the public official*] in one or
17 more depositories currently qualified pursuant to ORS 295.001 to 295.108. [*The public official may*
18 *not have on deposit in any one credit union depository an aggregate sum in excess of the deposit in-*
19 *surance limits established by the National Credit Union Administration.*] With respect to bank de-
20 positaries **and credit union depositories**, unless [*a bank*] **the** depository has entered into the
21 agreement described in ORS 295.008 (2)(b) and has deposited securities pursuant to ORS 295.015 (1),
22 the public official [*shall*] **may** not have on deposit in any one [*bank*] depository and [*its*] branches
23 **of the depository** a sum in excess of:

24 (a) The amount insured by the Federal Deposit Insurance Corporation **or the National Credit**
25 **Union Share Insurance Fund**; or

26 (b) For any amount over the amount insured by the Federal Deposit Insurance Corporation **or**
27 **the National Credit Union Share Insurance Fund**, the amount insured or guaranteed by private
28 deposit insurance or a deposit guaranty bond issued by an insurance company rated A- or better by
29 a recognized insurance rating service.

30 (2) Compliance with ORS 295.001 to 295.108 relieves the public official of personal liability on
31 account of the loss of the public funds in the custody or control of the public official.

32 **SECTION 3.** ORS 295.004 is amended to read:

33 295.004. (1) A public official may deposit public funds in a bank depository **or credit union**
34 **depository** in an amount in excess of the amount allowed in ORS 295.002 without requiring the
35 [*bank*] depository to show that [*it*] **the depository** has entered into the agreement described in ORS
36 295.008 (2)(b) or deposited securities pursuant to ORS 295.015 (1) if the funds are initially deposited
37 into a [*bank*] depository in Oregon and the Oregon [*bank*] depository participates in a program
38 through which:

39 (a) The Oregon [*bank*] depository arranges for deposit of the funds into one or more certificates
40 of deposit or time deposits issued by other financial institutions in the United States;

41 (b) Each certificate of deposit or time deposit is fully insured by the Federal Deposit Insurance
42 Corporation **or the National Credit Union Share Insurance Fund**;

43 (c) The Oregon [*bank*] depository administers the funds on behalf of the public official; and

44 (d) Other financial institutions participating in the program place funds into the Oregon depos-
45 itory in an amount at least equal to the amount deposited into the Oregon [*bank*] depository by the

1 public official for purposes of the program.

2 (2) Until the Oregon bank depository **or credit union depository** places public funds into one
3 or more certificates of deposit or time deposits as provided in subsection (1) of this section, *[any]*
4 public funds *[held by]* **that** the Oregon *[bank]* depository **holds** pending *[such]* placement that *[are*
5 *in excess of]* **exceed** the amounts allowed in ORS 295.002 must be collateralized as provided in ORS
6 295.001 to 295.108 for other **deposits of** public funds *[deposits]*.

7 (3) The provisions of ORS 295.006, 295.013, 295.015, 295.018 and 295.037 **and section 12 of this**
8 **2009 Act** do not apply to **deposits of** public funds *[deposits]* **that are** deposited into a bank deposi-
9 tory **or credit union depository** in Oregon that the *[bank]* depository arranges for under the pro-
10 visions of the program described in this section. The provisions of ORS 294.035 and 295.001 requiring
11 deposit of public funds into depositories that have offices or branches in Oregon do not apply to
12 certificates of deposit or time deposits that an Oregon *[bank]* depository arranges for under the
13 provisions of the program described in this section.

14 **SECTION 4.** ORS 295.006 is amended to read:

15 295.006. (1) *[Each]* **A** bank depository **and a credit union depository** shall keep on file with the
16 State Treasurer the name and address of *[its]* **the depository's** custodian *[bank]*.

17 (2) *[Each]* **A** public official shall keep on file with the State Treasurer the *[names, addresses and*
18 *such other information as]* **name and address of each bank depository and credit union deposi-**
19 **tory in which the public official deposits funds, along with any other information** the State
20 Treasurer *[shall prescribe]* **may require** by rule *[of each depository in which the public official de-*
21 *posits public funds]*.

22 **SECTION 5.** ORS 295.008 is amended to read:

23 295.008. (1)(a) An insured institution, *[or]* trust company **or credit union** may not be a custodian
24 *[bank]* under ORS 295.001 to 295.108, unless *[it]* **the insured institution, trust company or credit**
25 **union** certifies in writing to the State Treasurer that *[it]* **the insured institution, trust company**
26 **or credit union** will furnish the reports required under ORS 714.075 to the Director of the Depart-
27 ment of Consumer and Business Services.

28 (b) The State Treasurer may approve one or more insured institutions, *[or]* trust companies **or**
29 **credit unions** to serve as custodians for bank depositories **or credit union depositories**. The State
30 Treasurer shall promptly notify all *[bank]* depositories of the approval of an insured institution,
31 *[or]* trust company **or credit union** to serve as a custodian.

32 (2) An insured institution, *[or]* trust company **or credit union** may not be a *[bank]* depository
33 under ORS 295.001 to 295.108, unless *[it]* **the insured institution, trust company or credit**
34 **union:**

35 (a) Certifies in writing to the State Treasurer that *[it]* **the insured institution, trust company**
36 **or credit union** will furnish the reports required under ORS 714.075 to the Director of the Depart-
37 ment of Consumer and Business Services;

38 (b) Except as provided in subsection (4) of this section, enters into a pledge agreement; and

39 (c) Complies with subsection (3) of this section.

40 (3) After July 1, 2008, *[any]* **an** insured institution, *[or]* trust company **or credit union** that is
41 not acting as a bank depository **or credit union depository** on July 1, 2008, and that wishes to
42 become a *[bank]* depository shall file with the State Treasurer an initial written report signed or
43 authenticated by an officer of the insured institution, *[or]* trust company **or credit union** setting
44 forth, as of the date the insured institution, *[or]* trust company **or credit union** intends to commence
45 acting as a *[bank]* depository:

1 (a) The estimated total amount of public funds that will be on deposit with the insured institu-
2 tion, [or] trust company **or credit union**;

3 (b) The estimated net worth of the insured institution, [or] trust company **or credit union**;

4 (c) The amount and nature of the collateral that will be deposited with [its] **the custodian of**
5 **the insured institution, trust company or credit union** to collateralize the public funds deposits;
6 and

7 (d) The identity of [its] **the custodian of the insured institution, trust company or credit**
8 **union**.

9 (4) An insured institution, [or] trust company **or credit union** may be a bank depository **or**
10 **credit union depository** under ORS 295.001 to 295.108 without entering into a pledge agreement
11 or complying with subsection (3) of this section if the insured institution, [or] trust company **or**
12 **credit union** does not hold [any] funds on deposit for a public official that exceed the limits speci-
13 fied in ORS 295.002 for that type of depository. The provisions of ORS 295.006, 295.013, 295.015,
14 295.018, 295.037 and 295.061 **and section 12 of this 2009 Act** do not apply to an insured
15 institution, [or] trust company **or credit union** that is a [bank] depository under this subsection.

16 **SECTION 6.** ORS 295.013 is amended to read:

17 295.013. (1) Upon receipt of securities from [the] **a bank depository or credit union**
18 **depository**, [the] **a custodian [bank]** shall issue to the State Treasurer, with a copy to the [bank]
19 depository, a custodian's receipt describing the securities.

20 (2) [Each] **A** custodian shall:

21 (a) Maintain an accurate inventory of the securities of each bank depository **or credit union**
22 **depository** described in the [custodian's] receipts [issued by] the custodian **issues** to the State
23 Treasurer, and adjust the inventory to reflect withdrawals and substitutions of securities previously
24 inventoried.

25 (b) Appraise the value of the securities added to and withdrawn from the **depository's** inventory
26 [of the bank depository, and appraise] **and** the value of the **depository's** entire inventory [of the bank
27 depository] on the last day of each month and at such other times as the State Treasurer directs.

28 (c) Provide a monthly report to the State Treasurer [listing] **that lists** the securities [pledged
29 by each bank] **the** depository **pledged** and [setting] **sets** forth the value of each security and of the
30 entire inventory of securities [pledged by] the [bank] depository **pledged**.

31 (d) Notify a [bank] depository in writing whenever the value of the securities [held by] the
32 custodian **holds** for the [bank] depository is less than:

33 (A) For a [bank] depository that is subject to increased collateral requirements under ORS
34 295.018, 110 percent of the greater of:

35 (i) All public funds [held by] the [bank] depository **holds**; or

36 (ii) The average of the balances of public funds [held by] the [bank] depository **holds**, as shown
37 on the last four immediately preceding treasurer reports; or

38 (B) For a [bank] depository that is not subject to increased collateral requirements under ORS
39 295.018, the maximum liability for the [bank] depository.

40 (e) Notify the State Treasurer in writing if a [bank] depository fails to increase the value of
41 [its] **the depository's** securities within five business days after [receipt of] **receiving** notice under
42 paragraph (d) of this subsection.

43 (f) Notify the State Treasurer in writing if a [bank] depository increases the value of [its] **the**
44 **depository's** securities to an adequate amount after [receipt of] **receiving** notice under paragraph
45 (d) of this subsection.

1 (g) Notify the State Treasurer whenever a bond in [*the inventory of a bank depository*] a **de-**
 2 **pository's inventory** no longer meets the rating requirements described in ORS 295.001 (17)(c) or
 3 (d).

4 **SECTION 7.** ORS 295.015 is amended to read:

5 295.015. Except as provided in ORS 295.018:

6 (1)(a) [*Each*] **A bank depository or credit union depository** throughout the period [*of its pos-*
 7 *session of public fund*] **during which the depository possesses deposits of public funds** in excess
 8 of the amounts insured or guaranteed as described in ORS 295.002 (1)(a) and (b) shall maintain on
 9 deposit with [*its*] **the depository's** custodian, at [*its*] **the depository's** own expense, securities
 10 having a value at least equal to [*its*] **the depository's** maximum liability and as otherwise pre-
 11 scribed in ORS 295.001 to 295.108. [*Such*] **The depository shall deposit the** collateral [*shall be de-*
 12 *posited*] with the [*bank*] depository's custodian and shall [*be clearly designated*] **clearly designate**
 13 **the collateral** as security for the benefit of depositors of public funds under ORS 295.001 to 295.108.

14 (b) For purposes of this section, when pledged as collateral for **deposits of** public funds
 15 [*deposits*], loans described in ORS 295.001 (17)(f) shall be discounted to 75 percent of the unpaid
 16 principal balance owing on the loan from time to time, or to a lower value determined by the State
 17 Treasurer from time to time.

18 (c) [*When*] **If** a bond anticipation note is pledged as collateral for **deposits of** public funds [*de-*
 19 *posits,*] **and** if there is no readily determinable market value for the note, [*it*] **the note** shall be
 20 discounted to 75 percent of the unpaid principal balance owing on the note from time to time, or to
 21 a lower value determined by the State Treasurer from time to time.

22 (2) The bank depository **or credit union depository** may deposit other eligible securities with
 23 [*its*] **the depository's** custodian and withdraw from deposit securities [*theretofore*] **earlier** pledged
 24 to secure deposits of public funds, if the remaining securities have a value not less than [*its*] **the**
 25 **depository's** maximum liability. The State Treasurer shall execute such releases and surrender such
 26 custodian's receipts as are appropriate to effect substitutions and withdrawals of matured and excess
 27 pledged securities.

28 (3) If a bank depository's **or credit union depository's** maximum liability increases because
 29 [*it*] **the depository** ceases to be a well capitalized [*bank*] depository or because [*it*] **the depository**
 30 ceases to be an adequately capitalized [*bank*] depository, within five business days after the date on
 31 which the [*bank*] depository's maximum liability increases, the [*bank*] depository shall:

32 (a) Notify [*its*] **the depository's** custodian and the State Treasurer in writing that the [*bank*]
 33 depository's maximum liability has increased, setting forth the [*bank*] depository's new maximum li-
 34 ability; and

35 (b) Tender to [*its*] **the depository's** custodian additional securities having sufficient value to
 36 increase the total value of [*its*] **the depository's** securities pledged as collateral for public funds
 37 deposits to the new maximum liability of the [*bank*] depository.

38 (4) If a bank depository's **or credit union depository's** maximum liability decreases because
 39 [*it*] **the depository** moves from being an undercapitalized [*bank*] depository to being a well capital-
 40 ized [*bank*] depository or an adequately capitalized [*bank*] depository, or because [*it*] **the depository**
 41 moves from being an adequately capitalized [*bank*] depository to a well capitalized [*bank*] depository,
 42 the [*bank*] depository may:

43 (a) Notify [*its*] **the depository's** custodian and the State Treasurer in writing that the [*bank*]
 44 depository's maximum liability has decreased, setting forth the [*bank*] depository's new maximum li-
 45 ability; and

1 (b) With the written approval of the State Treasurer, withdraw from *[its]* **the depository's**
 2 custodian any securities that exceed the *[bank]* depository's new maximum liability.

3 (5) The State Treasurer shall act upon requests for releases and withdrawals of securities under
 4 subsections (2) and (4)(b) of this section within three business days after *[the receipt of]* **receiving**
 5 each request.

6 **SECTION 8.** ORS 295.018 is amended to read:

7 295.018. (1) The State Treasurer may require *[any]* **a bank depository or credit union deposi-**
 8 **tory** during any period when *[it]* **the depository** *[has in its possession public fund]* **possesses de-**
 9 **posits of public funds** to maintain on deposit with *[its]* **the depository's** custodians securities
 10 *[having]* **that have** a value not less than 110 percent of the greater of:

11 (a) All public funds held by the *[bank]* depository; or

12 (b) The average of the balances of public funds held by the *[bank]* depository, as shown on the
 13 last four immediately preceding treasurer reports.

14 (2) **The State Treasurer shall order** an increase in collateral under subsection (1) of this sec-
 15 tion *[shall be ordered upon the advice of]* **if** the Director of the Department of Consumer and Busi-
 16 ness Services **so advises**. If the *[bank]* depository is a national bank or a federally chartered savings
 17 bank, *[or]* savings and loan association **or federal credit union**, in giving advice to the State
 18 Treasurer the director may rely exclusively on information provided to the director by federal reg-
 19 ulatory agencies and by the **bank, association or federal credit union** on forms prescribed by the
 20 director. As a condition of being analyzed and reviewed by the director, a *[federal association]* **bank,**
 21 **association or federal credit union** shall agree and consent to provide the director with accurate,
 22 pertinent and timely information.

23 (3) *[Failure of the director]* **The director's failing** to inform the State Treasurer of the condition
 24 of *[any]* **a bank depository or credit union depository** does not give *[any]* **a public depositor any**
 25 right or impose *[any]* liability on the director. The State Treasurer *[shall not be]* **is not** liable to
 26 *[any]* **a public depositor or to [any bank]** **a depository** for increasing or not increasing the collateral
 27 requirement as authorized in subsection (1) of this section.

28 (4) *[Any]* **A bank depository or credit union depository** notified by the State Treasurer of the
 29 increased collateral requirement shall comply with the order within five business days by increasing
 30 the collateral in the same manner as required for the initial deposit of collateral in ORS 295.015 and,
 31 within the same five days, shall notify the State Treasurer of *[its]* **the depository's** compliance by
 32 supplying copies of the custodian's receipts for, or statement of activity showing, the increased
 33 collateral.

34 (5)(a) If the State Treasurer does not receive the notice required in subsection (4) of this section
 35 within the required five business days, the State Treasurer shall immediately notify the director of
 36 the failure and shall send notice to all public officials served by *[that]* **the bank depository or credit**
 37 **union depository** of *[its]* **the depository's** failure to comply.

38 (b) If, after giving notice as required by paragraph (a) of this subsection, the State Treasurer
 39 receives notice that the *[bank]* depository is in compliance with the increased collateral require-
 40 ments, the treasurer shall notify the public officials served by the *[bank]* depository that the *[bank]*
 41 depository is once again in compliance.

42 (6) A bank depository **or credit union depository** that does not comply with subsection (4) of
 43 this section *[shall]* **may not** accept *[no]* further **deposits of** public funds *[deposits]* that are not in-
 44 sured by the Federal Deposit Insurance Corporation **or the National Credit Union Share Insur-**
 45 **ance Fund**.

1 (7) The names of financial institutions contained in records received or compiled by the State
2 Treasurer pursuant to the provisions of this section [*shall be*] **are** exempt from public disclosure
3 unless the public interest requires disclosure in the particular instance.

4 **SECTION 9.** ORS 295.031 is amended to read:

5 295.031. (1) Within five business days after the State Treasurer receives notice from a custodian
6 pursuant to ORS 295.013 (2)(e) indicating that a bank depository **or credit union depository** has
7 failed to pledge adequate collateral with [*its*] **the depository's** custodian, the treasurer shall send
8 written notice of the failure to each public official who has public funds on deposit in the [*bank*]
9 depository with respect to which the notice under ORS 295.013 (2)(e) was given.

10 (2) Within five business days after the State Treasurer receives notice from a custodian pursuant
11 to ORS 295.013 (2)(f) indicating that a bank depository **or credit union depository** has once again
12 pledged adequate collateral with [*its*] **the depository's** custodian, the treasurer shall send written
13 notice to each public official who [*was*] **the treasurer** notified under subsection (1) of this section
14 stating that the [*bank*] depository once again has adequate collateral.

15 **SECTION 10.** ORS 295.034 is amended to read:

16 295.034. (1) Within 20 business days after a public official receives a notice from the State
17 Treasurer pursuant to ORS 295.018 (5)(a) or 295.031 (1), the public official shall withdraw from the
18 bank depository **or credit union depository** to which the notice applies all **deposits of** public funds
19 [*deposits*] except those deposits that are insured by the Federal Deposit Insurance Corporation **or**
20 **the National Credit Union Share Insurance Fund.**

21 (2) If a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (5)(a)
22 or 295.031 (1), beginning 20 business days after the public official receives the notice, the public of-
23 ficial may not deposit into the bank depository **or credit union depository** to which the notice
24 applies any public funds deposits if, as a result of [*such a*] **the** deposit, the total public funds [*of*] the
25 public official **has** on deposit with the [*bank*] depository exceed the deposit insurance limit of the
26 Federal Deposit Insurance Corporation **or the National Credit Union Share Insurance Fund.** The
27 prohibition on deposits continues until the public official receives notice under ORS 295.018 (5)(b)
28 or 295.031 (2) indicating that the [*bank*] depository is in compliance with ORS 295.013 or 295.018,
29 as applicable.

30 (3) Except as required by any applicable law or regulation, a bank depository **or credit union**
31 **depository** may not impose [*any*] **an** early withdrawal penalty or [*any*] forfeiture of interest with
32 respect to a withdrawal made by a public official pursuant to this section.

33 **SECTION 11.** Section 12 of this 2009 Act is added to and made a part of ORS 295.001 to
34 **295.108.**

35 **SECTION 12.** (1) **A credit union depository's deposit of securities with a custodian under**
36 **ORS 295.001 to 295.108 constitutes the credit union depository's consent to the disposition**
37 **of the securities in accordance with this section.**

38 (2) **When a loss occurs in a credit union depository, the credit union depository shall, as**
39 **soon as possible, pay to the proper public officials all funds subject to the loss in accordance**
40 **with the following procedures:**

41 (a) **The Director of the Department of Consumer and Business Services or the receiver**
42 **shall, within 20 days after obtaining a restraining order or taking possession of the credit**
43 **union depository, ascertain the amount of public funds on deposit in the credit union depos-**
44 **itory as disclosed by the credit union depository's records and the amount of public funds**
45 **that are covered by deposit insurance and shall certify the amounts to the State Treasurer**

1 and to each public official who has public funds on deposit in the credit union depository.

2 (b) Each public official who has public funds on deposit in the credit union depository
3 shall, within 10 days after receiving the certification from the Director of the Department
4 of Consumer and Business Services or the receiver, furnish to the State Treasurer verified
5 statements of the public funds that public official has on deposit in the credit union depository.
6

7 (3) Upon receiving the certification from the Director of the Department of Consumer
8 and Business Services or the receiver and the verified statements from the public officials
9 who have public funds on deposit in the credit union depository, the State Treasurer shall
10 ascertain and fix the amount of public funds on deposit in the credit union depository, plus
11 interest to the date the funds are distributed to the public official at the rate the credit union
12 depository agreed to pay on the funds, minus any amount covered by deposit insurance.

13 (4) After making the calculation described in subsection (3) of this section, the State
14 Treasurer shall assess the net amount of public funds against all credit union depositories
15 as follows:

16 (a) First, against the credit union depository that suffered the loss, to the extent of the
17 full value of the credit union depository's collateral deposited with the credit union depository's
18 custodian under ORS 295.001 to 295.108; and

19 (b) Second, against the collateral of all other credit union depositories on a proportionate
20 basis determined as provided in subsection (5) of this section.

21 (5) For purposes of subsection (4) of this section, the State Treasurer shall determine the
22 proportionate share of each of the other credit union depositories by:

23 (a) Averaging the amounts of the total deposits of public funds reported on the credit
24 union depository's last four treasurer reports;

25 (b) Averaging the total amounts of the total deposits of public funds reported on the last
26 four treasurer reports of all credit union depositories; and

27 (c) Dividing the result of the calculation performed under paragraph (a) of this sub-
28 section by the results of the calculation performed under paragraph (b) of this subsection.

29 (6) Notwithstanding the assessment provisions of subsection (4) of this section, the State
30 Treasurer shall assess the net amount of public funds a public official has on deposit only
31 against the credit union depository that suffered the loss, and not against the collateral of
32 other credit union depositories, if the public official:

33 (a) Received appropriate notice about the credit union depository from the State Treas-
34 urer under ORS 295.018 (5)(a) or 295.031 (1); and

35 (b) The public official did not comply with ORS 295.034.

36 (7) Assessments made by the State Treasurer are payable on the fifth business day fol-
37 lowing demand. If a credit union depository fails to pay an assessment, the State Treasurer
38 shall take possession of the securities the credit union depository segregated as collateral
39 and liquidate the securities for the purpose of paying the assessment.

40 (8) The State Treasurer shall distribute the net proceeds of the assessments and of any
41 liquidated collateral among the public officials entitled to the proceeds in proportion to the
42 public officials' respective claims, to the extent that the proceeds do not exceed the total net
43 amount of deposits of public funds and accrued interest that the public officials claim.

44 (9) If, after all other available sources are applied, the net proceeds of the assessments
45 and of the liquidated collateral are inadequate to meet the total claims of the public officials

1 **entitled to the proceeds, the public officials may make claims against the closed credit union**
 2 **depository as general creditors.**

3 **(10) The prohibition on transfers of assets set forth in ORS 711.410 does not apply to as-**
 4 **essments, payments, transfers or sales of securities made in accordance with this section.**

5 **SECTION 13.** ORS 295.041 is amended to read:

6 295.041. Upon the **State Treasurer's** distribution of the proceeds of assessments and liquidated
 7 collateral **to a public official under** *[pursuant to]* ORS 295.037 **or section 12 of this 2009 Act** *[by*
 8 *the State Treasurer to any public official]*, the State Treasurer *[shall be]* **is** subrogated to all of the
 9 **public official's** right, title and interest *[of the public official]* against *[the]* **a** closed bank depository
 10 **or credit union depository**, and shall share in any distribution of *[its]* **the closed depository's**
 11 assets ratably with other depositors. *[Any]* Sums received from *[any]* **a** distribution *[shall]* **must** be
 12 paid to the public *[officials]* **official** to the extent of any unpaid net deposit liability and the balance
 13 remaining *[shall]* **must** be paid to the *[bank]* depositories against which the assessments were made,
 14 pro rata in proportion to the assessments *[actually paid by]* each *[bank]* depository **paid**. However,
 15 the closed *[bank]* depository may not share in *[any]* **a** distribution of the balance remaining. *[If]* The
 16 State Treasurer **may charge expenses that the treasurer** incurs *[expenses]* in enforcing the
 17 treasurer's rights under this section*[, the expenses may be charged]* as provided in ORS 295.106. The
 18 State Treasurer shall submit a claim for expenses to the *[bank]* depository, and if the charges are
 19 thereafter paid to the treasurer, they shall be treated as a liquidation expense of the closed *[bank]*
 20 depository.

21 **SECTION 14.** ORS 295.046 is amended to read:

22 295.046. (1) A bank depository **or credit union depository** may not accept a deposit of public
 23 funds if the deposit would cause the aggregate of **deposits of** public funds *[deposits]* made by any
 24 one public official in the *[bank]* depository to exceed at any time the **depository's** net worth *[of the*
 25 *bank depository]*. If a *[bank]* depository's net worth is reduced, the *[bank]* depository may allow
 26 public funds on deposit in excess of the reduced net worth to remain if the *[bank]* depository de-
 27 posits with *[its]* **the depository's** custodian eligible securities valued at market value in an amount
 28 at least equal to the amount of the excess **deposits of** public funds *[deposits]*. If the additional se-
 29 curities required by this section are not deposited with the custodian, the *[bank]* depository shall
 30 permit the public official to withdraw deposits prior to maturity, including accrued interest, in ac-
 31 cordance with applicable statutes and governmental regulations.

32 (2) The limitations of subsection (1) of this section do not apply to **deposits of** public funds
 33 *[deposits]* held by a bank depository **or credit union depository** in a certificate of deposit or time
 34 deposit under the program described in ORS 295.004.

35 **SECTION 15.** ORS 295.048 is amended to read:

36 295.048. (1) Notwithstanding ORS 295.046, a bank depository **or credit union depository** may
 37 not permit the aggregate of public funds *[deposits]* on deposit with the *[bank]* depository from all
 38 public officials to exceed at any time:

39 (a) 100 percent of the value of the *[bank]* depository's net worth, if the *[bank]* depository is an
 40 undercapitalized *[bank]* depository;

41 (b) 150 percent of the value of the *[bank]* depository's net worth, if the *[bank]* depository is an
 42 adequately capitalized *[bank]* depository;

43 (c) 200 percent of the value of the *[bank]* depository's net worth, if the *[bank]* depository is a
 44 well capitalized *[bank]* depository; *[or]*

45 (d) **For a bank depository**, 30 percent of the total aggregate **deposits of** public funds

1 [deposits] of all public officials in all bank depositories as reported in the most recent notice re-
 2 ceived by the bank depository from the State Treasurer[.]; **or**

3 **(e) For a credit union depository, 30 percent of the total aggregate deposits of public**
 4 **funds of all public officials in all credit union depositories as reported in the most recent**
 5 **notice received by the credit union depository from the State Treasurer.**

6 (2) The State Treasurer shall notify each bank depository **or credit union depository** and [its]
 7 **the depository's** custodian of the total aggregate **deposits of** public funds [deposits] of all public
 8 officials in all bank depositories **or credit union depositories**, based on the most recently submitted
 9 treasurer reports. The treasurer shall give the notification required by this subsection by the last
 10 day of the month in which [bank] depositories are required to submit a treasurer report.

11 (3) If a bank depository's **or credit union depository's** aggregate of **deposits of** public funds
 12 [deposits] exceeds the amount set forth in subsection (1) of this section, the [bank] depository shall,
 13 not later than 20 business days after [receipt of] **receiving** notice from the State Treasurer, cease
 14 accepting deposits of public funds.

15 (4) Notwithstanding subsections (1) and (3) of this section:

16 (a) A bank depository **or credit union depository** may accept and hold **deposits of** public funds
 17 [deposits] in excess of the limits provided in subsection (1) of this section if the State Treasurer,
 18 upon good cause shown, approves the request of the [bank] depository to hold public funds in excess
 19 of the limits provided in subsection (1) of this section for a period not exceeding 90 days.

20 (b) The limitations of subsection (1) of this section do not apply to **deposits of** public funds
 21 [deposits held by] a [bank] depository **holds** in a program described in ORS 295.004.

22 (c) A well capitalized [bank] depository or an adequately capitalized [bank] depository may ac-
 23 cept and hold **deposits of** public funds [deposits] in excess of the limit provided in subsection (1)(d)
 24 **or (e)** of this section if eligible securities are deposited with the [bank] depository's custodian as
 25 collateral in an amount at least equal to the amount of the **deposits of** public funds [deposits] **that**
 26 **are** in excess of the limitation prescribed in subsection (1)(d) **or (e)** of this section.

27 **SECTION 16.** ORS 295.053 is amended to read:

28 295.053. (1) If a bank depository **or credit union depository** ceases holding **deposits of** public
 29 funds [deposits], the [bank] depository's custodian shall continue to hold the pledged securities of the
 30 [bank] depository as collateral pursuant to ORS 295.001 to 295.108. Unless the State Treasurer di-
 31 rects that the **custodian hold the** [bank] depository's securities [be held] for a longer period, the
 32 custodian shall hold the [bank] depository's pledged securities for a period of:

33 (a) 30 days, in the case of a [bank] depository that was well capitalized as of the date the
 34 [bank] depository ceased holding any **deposits of** public funds [deposits];

35 (b) 90 days, in the case of a [bank] depository that was adequately capitalized as of the date the
 36 [bank] depository ceased holding any **deposits of** public funds [deposits]; or

37 (c) One year, in the case of a [bank] depository that was undercapitalized as of the date the
 38 [bank] depository ceased holding [any] **deposits of** public funds [deposits].

39 (2) If any of a bank depository's **or credit union depository's** pledged securities mature during
 40 the periods described in subsection (1) of this section, the [bank] depository shall pledge substitute
 41 securities that **the depository's custodian shall hold** [shall be held by its custodian] until the [ex-
 42 piration of the] period **expires**.

43 (3) At the end of the applicable holding period, if the bank depository **or credit union deposi-**
 44 **tory** has not, during that period, had **public funds** on deposit [any public funds deposits], the
 45 custodian shall tender the bank depository's **or credit union depository's** securities to the bank

1 depository **or the credit union depository, as appropriate.**

2 (4) Notwithstanding the release of a bank depository's **or a credit union depository's** securities
3 pursuant to subsection (3) of this section, the *[bank]* depository shall continue to be treated as a
4 *[bank]* depository and *[shall be]* **is** subject to assessment under ORS 295.037 until one year after the
5 *[bank]* depository ceased holding any **deposits of** public funds *[deposits]*. If the *[bank]* depository no
6 longer has pledged collateral that may be used to pay the assessment, the *[bank]* depository shall
7 remain liable for *[payment of]* **paying** the assessment from *[its]* **the depository's** other assets.

8 **SECTION 17.** ORS 295.061 is amended to read:

9 295.061. (1) On or before each treasurer report due date, each bank depository **or credit union**
10 **depository** that *[has in its possession public funds]* **possesses** deposits of **public funds from** one
11 or more public officials that exceed the limits specified in ORS 295.002 shall file *[its]* **the deposito-**
12 **ry's** treasurer report with *[its]* **the depository's** custodian *[bank]* and with the State Treasurer.

13 (2) *[Each]* **A** bank depository **or credit union depository** that files reports with the State
14 Treasurer under subsection (1) of this section shall notify the State Treasurer in writing or by
15 electronic means within 10 business days of:

16 (a) The date on which the *[bank]* depository's net worth is reduced by an amount greater than
17 10 percent of the amount shown as *[its]* **the depository's** net worth on the most recent report sub-
18 mitted pursuant to subsection (1) of this section; or

19 (b) The date on which the *[bank]* depository ceases to be well capitalized and becomes ade-
20 quately capitalized or undercapitalized, or ceases to be adequately capitalized and becomes under-
21 capitalized.

22 (3) An undercapitalized bank depository **or credit union depository** shall report the actual
23 amount of **deposits of** public funds *[deposits held by it]* **the depository holds** at least weekly to
24 *[its]* **the depository's** custodian *[bank]* and to the State Treasurer.

25 **SECTION 18.** ORS 295.071 is amended to read:

26 295.071. (1) The State Treasurer may request that the Director of the Department of Consumer
27 and Business Services or another state or federal agency with primary regulatory authority over
28 *[any]* **a** financial institution that is a bank depository or **credit union depository or** that applies
29 to become a bank depository **or credit union depository** investigate and report to the State
30 Treasurer concerning the condition of the financial institution.

31 (2) The financial institution examined under this section shall pay the expenses of the investi-
32 gation and report.

33 (3) In lieu of an investigation and report, the State Treasurer may rely upon information made
34 available to the State Treasurer or the Director of the Department of Consumer and Business Ser-
35 vices by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, **the Na-**
36 **tional Credit Union Administration**, the Federal Deposit Insurance Corporation, **the National**
37 **Credit Union Share Insurance Fund**, the Board of Governors of the Federal Reserve System or
38 *[any]* **a state regulatory agency with authority over banks, credit unions or thrifts.** *[bank or*
39 *thrift regulatory agency.]*

40 **SECTION 19.** ORS 295.073 is amended to read:

41 295.073. The Director of the Department of Consumer and Business Services shall advise the
42 State Treasurer of any action the director takes or directs *[any]* **a** bank depository **or credit union**
43 **depository** to take that will *[result in a reduction of greater]* **reduce the depository's net worth**
44 **by more** than 10 percent *[of the net worth of the bank depository]* as shown on the most recent
45 treasurer report submitted pursuant to ORS 295.061.

1 **SECTION 20.** ORS 295.081 is amended to read:

2 295.081. (1) Subject to ORS 295.002, 295.015 and 295.018, *[any]* a depository may offer in writing
3 to accept from the State Treasurer time deposits without limitation in **an** amount or in an aggregate
4 amount *[therein]* stated **in the offer** and to pay interest on the time deposits at rates specified in
5 the offer. The offer shall *[be a continuing offer]* **continue** until *[it is modified or withdrawn]* **the**
6 **depository modifies or withdraws the offer** by notice in writing delivered or mailed by registered
7 or certified mail to the State Treasurer. While the offer continues in effect, the depository *[is bound*
8 *to]* **must accept time deposits tendered by the State Treasurer** upon the terms *[therein]* specified
9 **in the offer.** *[time deposits tendered by the State Treasurer.]*

10 (2) *[Any]* Funds deposited by the State Treasurer on a time basis *[shall]* **must** be deposited at
11 the highest rate of interest available for the amount and term of the deposit.

12 (3) The State Treasurer shall establish time deposits so as to make the deposited moneys as
13 productive as possible, and shall exercise the judgment and care *[which]* **that a person** *[persons]*
14 of prudence, discretion and intelligence *[exercise]* **exercises** in the management of *[their]* **the per-**
15 **son's** own affairs, considering the probable income and the probable safety of the moneys deposited,
16 including the distribution of the deposits among depositories so as to minimize the possibility of loss
17 of moneys.

18 **SECTION 21.** ORS 295.084 is amended to read:

19 295.084. (1) The State Treasurer may designate such banks **and credit unions** *[as are*
20 *necessary]* within this state **as are necessary** as depositories for the collection of drafts, checks,
21 certificates of deposit and coupons received by the State Treasurer on account of any claim due the
22 state.

23 (2) The State Treasurer, on receipt of any draft, check or certificate of deposit, on account of
24 a claim due the state, may place *[it]* **the draft, check or certificate of deposit** in a depository for
25 collection. The depository shall collect *[it]* **the draft, check or certificate of deposit** without delay
26 and shall notify the State Treasurer when **the depository has collected the draft, check or cer-**
27 **tificate of deposit.** *[The compensation to be paid by the depository shall be fixed by]* The State
28 Treasurer **shall fix the compensation the depository must pay** upon the best terms obtainable for
29 the state.

30 **SECTION 22.** ORS 295.091 is amended to read:

31 295.091. (1) In selecting a *[banks or trust companies]* **bank, trust company or credit union** to
32 act as *[depositories]* **a depository**, *[public officials are]* **a public official** is not limited to the ap-
33 pointment of *[banks or trust companies in any]* **a bank, trust company or credit union in a** par-
34 ticular locality. However, if *[banks or trust companies are]* **a bank, trust company or credit union**
35 **is** engaged in business at an office or offices within the corporate limits of the political subdivision
36 or public corporation and *[qualify]* **qualifies** to receive the funds, *[such depositories]* **the local**
37 **qualifying depository** shall be given preference. If there is more than one *[such]* local qualifying
38 depository, the depositing public official shall apportion the funds in the hands of the public official
39 to *[such]* **the local qualifying** depositories in a manner that is equitable and in the best interests
40 of the political subdivision or public corporation.

41 (2) The depositories *[shall be required to]* **must** pay to the political subdivision or public corpo-
42 ration upon deposits evidenced by certificates of deposit or deposits that by agreement may not be
43 withdrawn on less than 30 days' notice, interest at *[such]* **the** rate or rates *[as shall be agreed upon*
44 *between]* **upon which** the governing body of the political subdivision or public corporation and the
45 depository **agree.**

1 (3) [All] Interest received on deposits of moneys under this section shall accrue to and become
2 a part of the fund the moneys of which were deposited.

3 (4) This section does not apply to the State Treasurer.

4 **SECTION 23.** ORS 295.106 is amended to read:

5 295.106. The State Treasurer may charge bank depositories **and credit union depositories** for
6 the **State Treasurer's** reasonable expenses [of the State Treasurer] in connection with the **State**
7 **Treasurer's** services, duties and activities [of the State Treasurer] related to ORS 295.001 to 295.108.
8 The State Treasurer shall deposit all moneys received under this section in the Miscellaneous Re-
9 cepts Account established in the General Fund for the State Treasurer. Moneys received under this
10 section are continuously appropriated to the State Treasurer for the payment of the **State Treas-**
11 **urer's** reasonable expenses [of the State Treasurer] in connection with the **State Treasurer's** ser-
12 vices, duties and activities [of the State Treasurer] related to ORS 295.001 to 295.108. A [bank]
13 depository shall pay to the State Treasurer all fees and other amounts charged under this section
14 or under rules adopted to implement this section.

15 **SECTION 24.** ORS 295.108 is amended to read:

16 295.108. (1) The State Treasurer shall adopt rules implementing the provisions of ORS 295.001
17 to 295.108.

18 (2) The State Treasurer shall design the treasurer report required by ORS 295.061. The **treas-**
19 **urer shall design the** report [shall be designed] to minimize the regulatory burden of completing
20 and submitting the report and, to the greatest extent practicable, [the] **to make the** form of the
21 report and the content required in the report [shall be] consistent with the information required by
22 the bank depository's **or credit union depository's** report of condition and income.

23 **SECTION 25.** ORS 295.205 is amended to read:

24 295.205. (1) Notwithstanding any other law:

25 (a) The State Treasurer may establish demand deposit accounts in financial institutions outside
26 this state for the purpose of accepting deposits of funds related to [the] state investments in the
27 geographical areas respectively serviced by the institutions.

28 (b) Moneys paid to or collected by a financial institution or other entity under an agreement to
29 provide loan servicing for a state agency, political subdivision or public corporation may be depos-
30 ited in accounts in financial institutions outside this state for the purpose of:

31 (A) Accepting payments of loan principal and interest;

32 (B) Accepting and holding escrow funds;

33 (C) Accepting and holding funds required to be held in reserve with or on behalf of the state
34 agency, political subdivision or public corporation; or

35 (D) Collecting and holding [any] other moneys required by the agreement for loan servicing to
36 be collected or held by the financial institution or other entity prior to remittance to the state
37 agency, political subdivision or public corporation or a third party.

38 (c) Moneys held by a trustee or escrow agent pursuant to a bond indenture, certificate of par-
39 ticipation indenture or escrow agreement with a state agency, political subdivision or public corpo-
40 ration in this state that are public funds, as defined in ORS 295.001, may be deposited in accounts
41 in financial institutions outside this state.

42 (2) The State Treasurer shall establish the demand deposit accounts described in subsection
43 (1)(a) of this section in accordance with rules adopted pursuant to ORS 183.310 to 183.410 that en-
44 sure that reasonable and prudent measures are taken to protect [the] state investment funds from
45 loss.

1 (3) When accounts are established for a state agency, political subdivision or public corporation
 2 under subsection (1)(b) or (c) of this section, the state agency, political subdivision or public corpo-
 3 ration in the agreement to provide loan servicing or the bond indenture, certificate of participation
 4 indenture or escrow agreement shall ensure that reasonable and prudent measures are taken to
 5 protect the moneys in the accounts from loss.

6 [(4) A public official may not have on deposit in any credit union that is a financial institution
 7 outside this state an aggregate sum in excess of the deposit insurance limit established by the National
 8 Credit Union Administration.]

9 [(5)] (4) As used in this section, the terms “financial institution outside this state” and “public
 10 official” have the meanings given those terms in ORS 295.001.

11 **SECTION 26.** ORS 576.375 is amended to read:

12 576.375. (1) [All] Moneys **a person collects or receives** [collected or received by any person]
 13 from the assessment levied under the authority of ORS 576.325 and [all] other moneys [received by]
 14 a commodity commission **receives** must be paid to the authorized agent of the commission and
 15 promptly deposited into an account established by the commission in a depository, as defined in ORS
 16 295.001, that is insured by the Federal Deposit Insurance Corporation **or the National Credit Un-**
 17 **ion Share Insurance Fund.** In a manner consistent with the requirements of ORS 295.001 to
 18 295.108, the chairperson and vice chairperson for a commission shall ensure that sufficient collateral
 19 secures any amount of funds on deposit that exceeds the limits of the Federal Deposit Insurance
 20 Corporation’s **or the National Credit Union Share Insurance Fund’s** coverage. All moneys in the
 21 account are continuously appropriated to the commission making the deposit for the purpose of
 22 carrying out the duties, functions and powers of the commission.

23 (2) Moneys may not be withdrawn from or paid out of the account except upon order of the
 24 commission, and upon checks or other orders upon such accounts signed by the secretary-treasurer
 25 or such other member of the commission as the commission designates and countersigned by such
 26 other member, officer or employee of the commission as the commission designates. The commission
 27 shall keep a receipt, voucher or other written record, showing clearly the nature and items covered
 28 by each check or other order.

29 (3) Subject to approval by the Director of Agriculture, a commission may invest moneys col-
 30 lected or received by the commission. Investments made by a commission are:

31 (a) Limited to investments described in ORS 294.035;

32 (b) Subject to the investments maturity date limitations described in ORS 294.135; and

33 (c) Subject to the conduct prohibitions listed in ORS 294.145.

34 (4) Interest earned from any moneys invested by a commission under subsection (3) of this sec-
 35 tion is available to the commission in a manner consistent with the commission’s annual budget.

36 **SECTION 27.** ORS 711.410 is amended to read:

37 711.410. Except for transfers **of public funds or securities as required under ORS 295.001 to**
 38 **295.108** by a [bank] depository, **as defined in ORS 295.001**, or the State Treasurer [of public funds
 39 or securities as required by ORS 295.001 to 295.108], all transfers of assets made after the commission
 40 of an act of insolvency or in contemplation of insolvency, to prevent the application of the assets
 41 in the manner prescribed by the Bank Act or to the preference of one creditor to another are void.

42 **SECTION 28.** (1) **Section 12 of this 2009 Act and the amendments to ORS 295.001, 295.002,**
 43 **295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048,**
 44 **295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.106, 295.108, 295.205, 576.375 and**
 45 **711.410 by sections 1 to 10 and 13 to 27 of this 2009 Act become operative January 1, 2010.**

1 **(2) The State Treasurer and the Director of the Department of Consumer and Business**
2 **Services may take any action before January 1, 2010, that is necessary to enable the State**
3 **Treasurer and the director to exercise, on and after January 1, 2010, all the duties, functions**
4 **and powers conferred on the State Treasurer and the director by section 12 of this 2009 Act**
5 **and the amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018,**
6 **295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084,**
7 **295.091, 295.106, 295.108, 295.205, 576.375 and 711.410 by sections 1 to 10 and 13 to 27 of this 2009**
8 **Act.**

9 **SECTION 29.** Section 12 of this 2009 Act and the amendments to ORS 295.001, 295.002,
10 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048,
11 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.106, 295.108, 295.205, 576.375 and
12 711.410 by sections 1 to 10 and 13 to 27 of this 2009 Act apply to public funds on deposit on
13 or after January 1, 2010.

14 **SECTION 30.** This 2009 Act being necessary for the immediate preservation of the public
15 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
16 on its passage.

17 _____