

# House Bill 2536

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## 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**.

Modifies amount of minimum collateral requirement for depositories of public funds that hold uninsured public funds.

## A BILL FOR AN ACT

1  
2 Relating to depositories of public funds; creating new provisions; and amending ORS 295.001 and  
3 295.018.

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

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

6 295.001. As used in ORS 295.001 to 295.108, unless the context requires otherwise:

7 (1) "Adequately capitalized" means a bank depository that is classified as adequately capitalized  
8 by its primary federal regulatory authority.

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

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

12 (b) Complies with ORS 295.008.

13 (3) "Business day" means any day other than a federal or State of Oregon legal holiday or a day  
14 on which offices of the State of Oregon are otherwise authorized by law to remain closed.

15 (4) "Closed depository" means a bank depository that is subject to a loss.

16 (5) "Credit union depository" means a credit union as defined in ORS 723.006 or a federal credit  
17 union if:

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

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

22 (6) "Custodian bank" or "custodian" means one of the following institutions designated by the  
23 bank depository for its own account:

24 (a) The Federal Home Loan Bank designated to serve this state, or any branch of that bank; or

25 (b) Any insured institution or trust company that:

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

27 (B) Complies with ORS 295.008; and

28 (C) Has been approved by the State Treasurer to serve as a custodian bank, if the State Treas-  
29 urer has approved custodians under ORS 295.008.

30 (7) "Custodian's receipt" or "receipt" means a document issued by a custodian bank describing  
31 the securities deposited with it by a bank depository to secure public fund deposits.

**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 (8) "Depository" means a bank depository or a credit union depository.
- 2 (9) "Financial institution outside this state" means a financial institution, as defined in ORS  
3 706.008, that is not an extranational institution, as defined in ORS 706.008, and is not a bank de-  
4 pository or credit union depository, as defined in this section.
- 5 (10) "Insured institution" means an insured institution as defined in ORS 706.008.
- 6 (11) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court  
7 of competent jurisdiction:
- 8 (a) Restraining a bank depository from making payments of deposit liabilities; or  
9 (b) Appointing a receiver for a depository.
- 10 (12) "Maximum liability" means a sum equal to 10 percent of the greater of:
- 11 (a) All uninsured public funds deposits held by the bank depository as shown on the date of its  
12 most recent treasurer report; or  
13 (b) The average of the balances of uninsured public funds deposits on the last two immediately  
14 preceding treasurer reports.
- 15 (13) "Minimum collateral requirement" for a bank depository on any given date means a sum  
16 equal to:
- 17 (a) For a well capitalized bank depository that has not been required to increase its collateral  
18 pursuant to ORS 295.018, [10] \_\_\_\_\_ percent of the greater of:
- 19 (A) All uninsured public funds held by the bank depository, as shown on the most recent treas-  
20 urer report;
- 21 (B) The average of the balances of uninsured public funds held by the bank depository, as shown  
22 on the last two immediately preceding treasurer reports; or  
23 (C) An amount otherwise prescribed in ORS 295.001 to 295.108.
- 24 (b) For a well capitalized bank depository that has been required to increase its collateral pur-  
25 suant to ORS 295.018, the percentage required by the State Treasurer pursuant to ORS 295.018  
26 multiplied by the greater of:
- 27 (A) All uninsured public funds held by the bank depository, as shown on the most recent treas-  
28 urer report;
- 29 (B) The average of the balances of uninsured public funds held by the bank depository, as shown  
30 on the last two immediately preceding treasurer reports; or  
31 (C) An amount otherwise prescribed in ORS 295.001 to 295.108.
- 32 (c) For an adequately capitalized bank depository or an undercapitalized bank depository, [110]  
33 \_\_\_\_\_ percent of the greater of:
- 34 (A) All uninsured public funds held by the bank depository; or  
35 (B) The average of the balances of uninsured public funds held by the bank depository, as shown  
36 on the last two immediately preceding treasurer reports.
- 37 (14) "Net worth" of a bank depository means the total risk-based capital of the bank depository,  
38 as shown on the immediately preceding report of condition and income, and may include capital  
39 notes and debentures that are subordinate to the interests of depositors.
- 40 (15) "Pledge agreement" means a written agreement among an insured institution or trust com-  
41 pany, the State Treasurer and a custodian that pledges the securities deposited by the insured in-  
42 stitution or trust company with the custodian as collateral for deposits of uninsured public funds  
43 held by the insured institution or trust company. The agreement must be approved by the board of  
44 directors or loan committee of the insured institution or trust company and must be continuously  
45 maintained as a written record of the insured institution or trust company.

1 (16) "Public funds" or "funds" means funds under the control or in the custody of a public offi-  
 2 cial by virtue of office.

3 (17) "Public official" means each officer or employee of this state or any agency, political sub-  
 4 division or public or municipal corporation thereof, or any housing authority, who by law is made  
 5 the custodian of or has control of any public funds.

6 (18) "Report of condition and income" means the quarterly report submitted to a bank  
 7 depository's primary federal regulatory authority.

8 (19) "Security" or "securities" means:

9 (a) Obligations of the United States, including those of its agencies and instrumentalities and  
 10 of government sponsored enterprises;

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

12 (c) Bonds of any state of the United States:

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

16 (B) Having once been so rated are ruled to be eligible securities for the purposes of ORS 295.001  
 17 to 295.108, notwithstanding the loss of such rating;

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

21 (e) Bonds of any county, city, school district, port district or other public body issued pursuant  
 22 to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county  
 23 or city within the State of Oregon, if the bonds have a long-term rating of AA or better;

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

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

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

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

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

40 (20) "Treasurer report" means a written report signed or authenticated by an officer of a bank  
 41 depository that has in its possession uninsured public funds deposits setting forth as of the close of  
 42 business on a specified date:

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

44 (b) The total amount of public funds on deposit with the bank depository;

45 (c) The net worth of the bank depository;

1 (d) The amount and nature of eligible collateral then on deposit with its custodian to  
2 collateralize the bank depository's public funds deposits; and

3 (e) The identity of its custodian.

4 (21) "Treasurer report due date" means a date not less than 10 business days after the date a  
5 bank depository's report of condition and income is due to be submitted.

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

7 (23) "Undercapitalized" means a bank depository that is classified as undercapitalized, signif-  
8 icantly undercapitalized or critically undercapitalized by its primary federal regulatory authority.

9 (24) "Uninsured public funds" or "uninsured public funds deposits" means public funds deposited  
10 in a bank depository that exceed the amounts insured or guaranteed as described in ORS 295.002  
11 (1)(a) and (b) and does not include public funds deposited in a certificate of deposit or time deposit  
12 under ORS 295.004.

13 (25) "Value" means the current market value of securities.

14 (26) "Well capitalized" means a bank depository that is classified as well capitalized by its pri-  
15 mary federal regulatory authority.

16 **SECTION 2.** ORS 295.001, as amended by section 1, chapter 101, Oregon Laws 2010, is amended  
17 to read:

18 295.001. As used in ORS 295.001 to 295.108, unless the context requires otherwise:

19 (1) "Adequately capitalized" means a depository that is classified as adequately capitalized by  
20 the depository's primary federal regulatory authority.

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

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

24 (b) Complies with ORS 295.008.

25 (3) "Business day" means a day other than a federal or State of Oregon legal holiday or a day  
26 other than a day on which offices of the State of Oregon are otherwise authorized by law to remain  
27 closed.

28 (4) "Closed depository" means a depository that is subject to a loss.

29 (5) "Credit union depository" means a credit union as defined in ORS 723.006 or a federal credit  
30 union if:

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

33 (b) The credit union or federal credit union maintains a head office or branch in this state in  
34 the capacity of a credit union or federal credit union; and

35 (c) The credit union or federal credit union complies with ORS 295.008.

36 (6) "Custodian" means one of the following institutions that a depository designates for the  
37 depository's own account:

38 (a) The Federal Home Loan Bank designated to serve this state, or a branch of the Federal  
39 Home Loan Bank; or

40 (b) An insured institution, trust company or credit union that:

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

42 (B) Complies with ORS 295.008; and

43 (C) Has been approved by the State Treasurer to serve as a custodian, if the State Treasurer  
44 has approved custodians under ORS 295.008.

45 (7) "Custodian's receipt" or "receipt" means a document issued by a custodian that describes the

1 securities that a depository deposited with the custodian to secure public fund deposits.

2 (8) "Depository" means a bank depository or a credit union depository.

3 (9) "Financial institution outside this state" means a financial institution, as defined in ORS  
4 706.008, that is not an extranational institution, as defined in ORS 706.008, and is not a bank de-  
5 pository or credit union depository, as defined in this section.

6 (10) "Insured institution" means an insured institution as defined in ORS 706.008.

7 (11) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court  
8 of competent jurisdiction that:

9 (a) Restrains a depository from making payments of deposit liabilities; or

10 (b) Appoints a receiver for a depository.

11 (12) "Maximum liability" means a sum equal to 10 percent of the greater of:

12 (a) All uninsured public funds deposits held by a depository, as shown on the date of the  
13 depository's most recent treasurer report; or

14 (b) The average of the balances of uninsured public funds deposits on the last two immediately  
15 preceding treasurer reports.

16 (13) "Minimum collateral requirement" for a depository on any given date means a sum equal  
17 to:

18 (a) For a well capitalized depository that the State Treasurer has not required to increase the  
19 depository's collateral pursuant to ORS 295.018, [10] \_\_\_\_\_ percent of the greater of:

20 (A) All uninsured public funds held by the depository, as shown on the most recent treasurer  
21 report;

22 (B) The average of the balances of uninsured public funds held by the depository, as shown on  
23 the last two immediately preceding treasurer reports; or

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

25 (b) For a well capitalized depository that the State Treasurer required to increase the  
26 depository's collateral pursuant to ORS 295.018, the percentage the State Treasurer required pur-  
27 suant to ORS 295.018 multiplied by the greater of:

28 (A) All uninsured public funds held by the depository, as shown on the most recent treasurer  
29 report;

30 (B) The average of the balances of uninsured public funds held by the depository, as shown on  
31 the last two immediately preceding treasurer reports; or

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

33 (c) For an adequately capitalized depository or an undercapitalized depository, [110] \_\_\_\_\_  
34 percent of the greater of:

35 (A) All uninsured public funds held by the depository; or

36 (B) The average of the balances of uninsured public funds held by the depository, as shown on  
37 the last two immediately preceding treasurer reports.

38 (14) "Net worth" means a depository's total risk-based capital, as shown on the immediately  
39 preceding report of condition and income, and may include capital notes and debentures that are  
40 subordinate to the interests of depositors.

41 (15) "Pledge agreement" means a written agreement among an insured institution, trust company  
42 or credit union, the State Treasurer and a custodian that pledges the securities the insured institu-  
43 tion, trust company or credit union deposits with the custodian as collateral for deposits of  
44 uninsured public funds that the insured institution, trust company or credit union holds. The board  
45 of directors or loan committee of the insured institution, trust company or credit union must ap-

1 prove the agreement and must continuously maintain the agreement as a written record of the in-  
2 sured institution, trust company or credit union.

3 (16) "Public funds" or "funds" means funds that a public official has custody of or controls by  
4 virtue of office.

5 (17) "Public official" means an officer or employee of this state or an agency, political subdivi-  
6 sion or public or municipal corporation of this state, or a housing authority, that by law is the  
7 custodian of or has control of public funds.

8 (18) "Report of condition and income" means the quarterly report a depository submits to the  
9 depository's primary federal regulatory authority.

10 (19) "Security" or "securities" means:

11 (a) Obligations of the United States, including those of agencies and instrumentalities of the  
12 United States, and of government sponsored enterprises;

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

14 (c) Bonds of a state of the United States that:

15 (A) Are rated in one of the four highest grades by a recognized investment service organization  
16 that has engaged regularly and continuously for a period of not less than 10 years in rating state  
17 and municipal bonds; or

18 (B) Having once been rated in accordance with subparagraph (A) of this paragraph, are ruled  
19 to be eligible securities for the purposes of ORS 295.001 to 295.108, notwithstanding the loss of the  
20 rating;

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

24 (e) Bonds of a county, city, school district, port district or other public body that are issued  
25 pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of a  
26 county or city within the State of Oregon, if the bonds meet the rating requirement or are ruled to  
27 be eligible securities as provided in paragraph (c) of this subsection;

28 (f) With the permission of the State Treasurer and in accordance with rules the State Treasurer  
29 adopts, loans made to a county, city, school district, port district or other public body in the State  
30 of Oregon, if the borrower has not defaulted with respect to the payment of principal or interest on  
31 any of the borrower's loans within the preceding 10 years or during the period of the borrower's  
32 existence if the borrower has existed for less than 10 years;

33 (g) With the permission of the State Treasurer and in accordance with rules the State Treasurer  
34 adopts, bond anticipation notes that an authority issues, sells or assumes under ORS 441.560;

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

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

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

44 (20) "Treasurer report" means a written report that an officer of a depository that holds  
45 uninsured public funds deposits has signed or authenticated and that sets forth as of the close of

1 business on a specified date:

2 (a) The total amount of uninsured public funds on deposit with the depository;

3 (b) The total amount of public funds on deposit with the depository;

4 (c) The net worth of the depository;

5 (d) The amount and nature of eligible collateral then on deposit with the depository's custodian  
6 to collateralize the depository's public funds deposits; and

7 (e) The identity of the depository's custodian.

8 (21) "Treasurer report due date" means a date not less than 10 business days after the date a  
9 depository's report of condition and income is due to be submitted.

10 (22) "Trust company" means a trust company as defined in ORS 706.008.

11 (23) "Undercapitalized" means a depository that the depository's primary federal regulatory au-  
12 thority has classified as undercapitalized, significantly undercapitalized or critically undercapital-  
13 ized.

14 (24)(a) "Uninsured public funds" or "uninsured public funds deposits" means public funds de-  
15 posited in a depository that exceed the amounts insured or guaranteed as described in ORS 295.002  
16 (1)(a) and (b).

17 (b) "Uninsured public funds" or "uninsured public funds deposits" does not include public funds  
18 deposited in a certificate of deposit or time deposit under ORS 295.004.

19 (25) "Value" means the current market value of securities.

20 (26) "Well capitalized" means a depository that the depository's primary federal regulatory au-  
21 thority has classified as well capitalized.

22 **SECTION 3.** ORS 295.018 is amended to read:

23 295.018. (1)(a) The State Treasurer may require any bank depository during any period when it  
24 has in its possession any uninsured public funds deposits to maintain on deposit with its custodians  
25 securities having a value not less than [110] \_\_\_\_\_ percent of the greater of:

26 (A) All uninsured public funds held by the bank depository; or

27 (B) The average of the balances of uninsured public funds held by the bank depository, as shown  
28 on the last two immediately preceding treasurer reports.

29 (b) In consultation with the Director of the Department of Consumer and Business Services, the  
30 State Treasurer may permit a bank depository to increase its collateral as required under paragraph  
31 (a) of this subsection over a period of time specified by the State Treasurer or may require a bank  
32 depository to increase its collateral to an amount that is less than the amount specified in paragraph  
33 (a) of this subsection.

34 (2) An increase in collateral under subsection (1) of this section shall be ordered upon the advice  
35 of the director. If the bank depository is a national bank or a federally chartered savings bank or  
36 savings and loan association, in giving advice to the State Treasurer the director may rely exclu-  
37 sively on information provided to the director by federal regulatory agencies and by the bank,  
38 savings bank or association on forms prescribed by the director. As a condition of being analyzed  
39 and reviewed by the director, a national bank or a federally chartered savings bank or savings and  
40 loan association shall agree and consent to provide the director with accurate, pertinent and timely  
41 information.

42 (3) If the State Treasurer orders a bank depository to increase its collateral under subsection  
43 (1) of this section, the State Treasurer shall give notice of the order to the director and the custo-  
44 dian of the bank depository within one business day after issuing the order.

45 (4) Failure of the director to inform the State Treasurer of the condition of any bank depository

1 does not give any public depositor any right or impose any liability on the director. The State  
 2 Treasurer shall not be liable to any public depositor or to any bank depository for increasing or not  
 3 increasing the collateral requirement as authorized in subsection (1) of this section.

4 (5) Any bank depository notified by the State Treasurer of the increased collateral requirement  
 5 shall:

6 (a) Within three business days after receiving the notice, submit to the State Treasurer and the  
 7 director the bank depository's plan for increasing its collateral to the level required by the State  
 8 Treasurer under subsection (1) of this section; and

9 (b) Within five business days after receiving approval of its plan submitted under paragraph (a)  
 10 of this subsection, or within a longer period approved by the State Treasurer and the director, in-  
 11 crease its collateral to the level required by the State Treasurer under subsection (1) of this section  
 12 and notify the State Treasurer and the director of its compliance by supplying copies of the  
 13 custodian's receipts for, or statement of activity showing, the increased collateral.

14 (6)(a) If the State Treasurer does not receive the notice required in subsection (5)(b) of this  
 15 section within the applicable period under subsection (5)(b) of this section, the State Treasurer shall  
 16 immediately send notice to each public official who has notified the State Treasurer that the public  
 17 official has public funds on deposit in that bank depository of the bank depository's failure to com-  
 18 ply.

19 (b) If, after giving notice as required by paragraph (a) of this subsection, the State Treasurer  
 20 receives notice that the bank depository is in compliance with the increased collateral requirements,  
 21 the State Treasurer shall notify each public official who was notified under paragraph (a) of this  
 22 subsection that the bank depository is once again in compliance.

23 (7) A bank depository that does not comply with subsection (5) of this section may not accept  
 24 additional uninsured public funds deposits.

25 (8) The collateralization requirement for a bank depository and the amount of collateral held  
 26 by a custodian contained in records received or compiled by the State Treasurer is exempt from  
 27 public disclosure unless the public interest requires disclosure in the particular instance.

28 (9) The State Treasurer may require a bank depository that is required to increase its collateral  
 29 under subsection (5) of this section to file the reports required under ORS 295.061 (3).

30 **SECTION 4.** ORS 295.018, as amended by section 8, chapter 101, Oregon Laws 2010, is amended  
 31 to read:

32 295.018. (1)(a) The State Treasurer may require a depository, during any period when the de-  
 33 pository possesses uninsured public funds deposits, to maintain on deposit with the depository's  
 34 custodians securities that have a value not less than [110] \_\_\_\_\_ percent of the greater of:

35 (A) All uninsured public funds the depository holds; or

36 (B) The average of the balances of uninsured public funds the depository holds, as shown on the  
 37 last two immediately preceding treasurer reports.

38 (b) In consultation with the Director of the Department of Consumer and Business Services, the  
 39 State Treasurer may permit a depository to increase the depository's collateral as required under  
 40 paragraph (a) of this subsection over a period of time the State Treasurer specifies or may require  
 41 a depository to increase the depository's collateral to an amount that is less than the amount  
 42 specified in paragraph (a) of this subsection.

43 (2) The State Treasurer shall order an increase in collateral under subsection (1) of this section  
 44 if the director so advises. If the depository is a national bank, a federally chartered savings bank,  
 45 a savings and loan association or a federal credit union, in giving advice to the State Treasurer the



1 director may rely exclusively on information that the federal regulatory agencies and the bank,  
 2 savings bank, association or federal credit union provide to the director on forms the director pre-  
 3 scribes. As a condition of being analyzed and reviewed by the director, a national bank, a federally  
 4 chartered savings bank, a savings and loan association or a federal credit union shall agree and  
 5 consent to provide the director with accurate, pertinent and timely information.

6 (3) If the State Treasurer orders a depository to increase the depository's collateral under sub-  
 7 section (1) of this section, the State Treasurer shall give notice of the order to the director and the  
 8 custodian of the depository within one business day after issuing the order.

9 (4) The director's failure to inform the State Treasurer of the condition of any depository does  
 10 not give a public depositor any right or impose liability on the director. The State Treasurer is not  
 11 liable to a public depositor or to a depository for increasing or not increasing the collateral re-  
 12 quirement as authorized in subsection (1) of this section.

13 (5) A depository that the State Treasurer notifies of the increased collateral requirement shall:

14 (a) Within three business days after receiving the notice, submit to the State Treasurer and the  
 15 director the depository's plan to increase the depository's collateral to the level the State Treasurer  
 16 requires under subsection (1) of this section; and

17 (b) Within five business days after receiving approval of the plan the depository submitted under  
 18 paragraph (a) of this subsection, or within a longer period approved by the State Treasurer and the  
 19 director, increase the depository's collateral to the level the State Treasurer requires under sub-  
 20 section (1) of this section and notify the State Treasurer and the director that the depository has  
 21 complied by supplying copies of the custodian's receipts for, or statement of activity showing, the  
 22 increased collateral.

23 (6)(a) If the State Treasurer does not receive the notice required in subsection (5)(b) of this  
 24 section within the applicable period under subsection (5)(b) of this section, the State Treasurer shall  
 25 immediately send, to each public official who has notified the State Treasurer that the public official  
 26 has public funds on deposit in that depository, notice that the depository has failed to comply.

27 (b) If, after giving notice as required by paragraph (a) of this subsection, the State Treasurer  
 28 receives notice that the depository has complied with the increased collateral requirements, the  
 29 State Treasurer shall notify each public official that the State Treasurer notified under paragraph  
 30 (a) of this subsection that the depository has complied.

31 (7) A depository that does not comply with subsection (5) of this section may not accept addi-  
 32 tional uninsured public funds deposits.

33 (8) Records the State Treasurer receives or compiles that contain the collateralization require-  
 34 ment for a depository and the amount of collateral a custodian holds are exempt from public dis-  
 35 closure unless the public interest requires disclosure in the particular instance.

36 (9) The State Treasurer may require a depository that must increase the depository's collateral  
 37 under subsection (5) of this section to file the reports required under ORS 295.061 (3).

38 **SECTION 5. If a depository's minimum collateral requirement decreases because of the**  
 39 **amendments to ORS 295.001 or 295.018 by sections 1 to 4 of this 2011 Act, the depository may:**

40 (1) **Notify the depository's custodian and the State Treasurer in writing that the**  
 41 **depository's minimum collateral requirement has decreased, setting forth the depository's**  
 42 **new minimum collateral requirement; and**

43 (2) **With the written approval of the State Treasurer, withdraw from the depository's**  
 44 **custodian securities that exceed the depository's new minimum collateral requirement.**