

House Bill 2613

Sponsored by Representative SCHAUFLEER (at the request of Oregon Bankers Association) (Presession filed.)

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**.

Allows deposit of public funds in Oregon depository in amount in excess of statutory limit if Oregon depository redeposits funds into insured deposit accounts in other financial institutions, re-deposited funds are federally insured and Oregon depository receives amount of deposits from other financial institutions in at least equal amount.

A BILL FOR AN ACT

1
2 Relating to deposits of public funds; creating new provisions; and amending ORS 295.001, 295.004,
3 295.046 and 295.048.

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

5 **SECTION 1.** ORS 295.004 is amended to read:

6 295.004. (1) A public official may deposit public funds in a bank depository in an amount in ex-
7 cess of the amount allowed in ORS 295.002 without requiring the bank depository to show that it
8 has entered into a pledge agreement or deposited securities pursuant to ORS 295.015 (1) if the funds
9 are initially deposited into a bank depository in Oregon and the Oregon bank depository participates
10 in a program through which:

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

13 (b) Each certificate of deposit or time deposit is fully insured by the Federal Deposit Insurance
14 Corporation;

15 (c) The Oregon bank depository administers the funds on behalf of the public official; and

16 (d) Other financial institutions participating in the program place funds into the Oregon depos-
17 itory in an amount at least equal to the amount deposited into the Oregon bank depository by the
18 public official for purposes of the program.

19 **(2) A public official may deposit public funds in a bank depository in an amount in excess**
20 **of the amount allowed in ORS 295.002 without requiring the bank depository to show that it**
21 **has entered into a pledge agreement or deposited securities pursuant to ORS 295.015 (1) if**
22 **the funds are initially deposited into a bank depository in Oregon and the Oregon bank de-**
23 **pository participates in a program that meets the following conditions:**

24 **(a) On or after the date that the funds are received, the Oregon bank depository:**

25 **(A) Arranges for the redeposit of the funds into one or more insured deposit accounts in**
26 **other financial institutions in the United States; and**

27 **(B) Administers the funds on behalf of the public official;**

28 **(b) The full amount of the funds redeposited by the Oregon bank depository into deposit**
29 **accounts in other financial institutions, together with any interest accrued on deposited**
30 **funds, is insured by the Federal Deposit Insurance Corporation; and**

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 (c) **On the same date that the funds are redeposited under this subsection, the Oregon**
 2 **bank depository receives an amount of deposits from customers of other financial insti-**
 3 **tutions that are at least equal to the amount of the funds redeposited by the Oregon bank**
 4 **depository.**

5 [(2)] (3) Until the Oregon bank depository places public funds into one or more certificates of
 6 deposit or time deposits as provided in subsection (1) of this section **or places public funds into**
 7 **insured deposit accounts as provided in subsection (2) of this section**, any uninsured public
 8 funds held by the Oregon bank depository pending such placement must be collateralized as provided
 9 in ORS 295.001 to 295.108 for other uninsured public funds deposits.

10 [(3)] (4)(a) The provisions of ORS 295.006, 295.013, 295.015, 295.018 and 295.037 do not apply to
 11 public funds deposits deposited into a bank depository in Oregon that the bank depository arranges
 12 for under the provisions of the [program] **programs** described in **subsections (1) and (2) of this**
 13 **section.**

14 (b) The provisions of ORS 294.035 and 295.001 requiring deposit of public funds into depositories
 15 that have offices or branches in Oregon do not apply to certificates of deposit or time deposits that
 16 an Oregon bank depository arranges for under the provisions of the program described in **sub-**
 17 **section (1) of this section or to public funds that an Oregon bank depository arranges to de-**
 18 **posit into insured deposit accounts under subsection (2) of this section.**

19 **SECTION 2.** ORS 295.004, as amended by section 3, chapter 101, Oregon Laws 2010, is amended
 20 to read:

21 295.004. (1) A public official may deposit public funds in a depository in an amount in excess of
 22 the amount allowed in ORS 295.002 without requiring the depository to show that the depository
 23 entered into a pledge agreement or deposited securities pursuant to ORS 295.015 (1) if the public
 24 official deposits the funds into a depository in Oregon and the Oregon depository participates in a
 25 program through which:

26 (a) The Oregon depository arranges to deposit the funds into one or more certificates of deposit
 27 or time deposits issued by other financial institutions in the United States;

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

30 (c) The Oregon depository administers the funds on behalf of the public official; and

31 (d) Other financial institutions that participate in the program place funds into the Oregon de-
 32 pository in an amount at least equal to the amount the public official deposited into the Oregon
 33 depository for purposes of the program.

34 **(2) A public official may deposit public funds in a depository in an amount in excess of**
 35 **the amount allowed in ORS 295.002 without requiring the depository to show that it has en-**
 36 **tered into a pledge agreement or deposited securities pursuant to ORS 295.015 (1) if the funds**
 37 **are initially deposited into a depository in Oregon and the Oregon depository participates in**
 38 **a program that meets the following conditions:**

39 **(a) On or after the date that the funds are received, the Oregon depository:**

40 **(A) Arranges for the redeposit of the funds into one or more insured deposit accounts in**
 41 **other financial institutions in the United States; and**

42 **(B) Administers the funds on behalf of the public official;**

43 **(b) The full amount of the funds redeposited by the Oregon depository into deposit ac-**
 44 **counts in other financial institutions, together with any interest accrued on deposited funds,**
 45 **is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share**

1 **Insurance Fund; and**

2 (c) **On the same date that the funds are redeposited under this subsection, the Oregon**
 3 **depository receives an amount of deposits from customers of other financial institutions that**
 4 **are at least equal to the amount of the funds redeposited by the Oregon depository.**

5 [(2)] (3) Until the Oregon depository places public funds into one or more certificates of deposit
 6 or time deposits as provided in subsection (1) of this section **or places public funds into insured**
 7 **deposit accounts as provided in subsection (2) of this section**, any uninsured public funds that
 8 the Oregon depository holds pending placement must be collateralized as provided in ORS 295.001
 9 to 295.108 for other uninsured public funds deposits.

10 [(3)] (4)(a) The provisions of ORS 295.006, 295.013, 295.015, 295.018 and 295.037 and section 12,
 11 chapter 101, Oregon Laws 2010, do not apply to Oregon depositories that arrange to deposit public
 12 funds in accordance with the [program] **programs** described in **subsections (1) and (2) of this**
 13 **section.**

14 (b) The provisions of ORS 294.035 and 295.001 that require public funds to be deposited into
 15 depositories that have offices or branches in Oregon do not apply to public funds that an Oregon
 16 depository arranges to deposit into certificates of deposit or time deposits under the provisions of
 17 the program described in **subsection (1) of this section or to public funds that an Oregon de-**
 18 **pository arranges to deposit into insured deposit accounts under subsection (2) of this sec-**
 19 **tion.**

20 **SECTION 3.** ORS 295.001 is amended to read:

21 295.001. As used in ORS 295.001 to 295.108, unless the context requires otherwise:

22 (1) “Adequately capitalized” means a bank depository that is classified as adequately capitalized
 23 by its primary federal regulatory authority.

24 (2) “Bank depository” means an insured institution or trust company that:

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

27 (b) Complies with ORS 295.008.

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

30 (4) “Closed depository” means a bank depository that is subject to a loss.

31 (5) “Credit union depository” means a credit union as defined in ORS 723.006 or a federal credit
 32 union if:

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

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

37 (6) “Custodian bank” or “custodian” means one of the following institutions designated by the
 38 bank depository for its own account:

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

40 (b) Any insured institution or trust company 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 bank, if the State Treas-
 44 urer has approved custodians under ORS 295.008.

45 (7) “Custodian’s receipt” or “receipt” means a document issued by a custodian bank describing

1 the securities deposited with it by a bank depository 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:

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

10 (b) Appointing 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 the bank depository as shown on the date of its
13 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 bank depository on any given date means a sum
17 equal to:

18 (a) For a well capitalized bank depository that has not been required to increase its collateral
19 pursuant to ORS 295.018, 10 percent of the greater of:

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

22 (B) The average of the balances of uninsured public funds held by the bank depository, as shown
23 on 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 bank depository that has been required to increase its collateral pur-
26 suant to ORS 295.018, the percentage required by the State Treasurer pursuant to ORS 295.018
27 multiplied by the greater of:

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

30 (B) The average of the balances of uninsured public funds held by the bank depository, as shown
31 on 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 bank depository or an undercapitalized bank depository, 110
34 percent of the greater of:

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

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

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

41 (15) "Pledge agreement" means a written agreement among an insured institution or trust com-
42 pany, the State Treasurer and a custodian that pledges the securities deposited by the insured in-
43 stitution or trust company with the custodian as collateral for deposits of uninsured public funds
44 held by the insured institution or trust company. The agreement must be approved by the board of
45 directors or loan committee of the insured institution or trust company and must be continuously

1 maintained as a written record of the insured institution or trust company.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (e) The identity of its custodian.

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

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

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

10 (24)(a) "Uninsured public funds" or "uninsured public funds deposits" means public funds de-
11 posited in a bank depository that exceed the amounts insured or guaranteed as described in ORS
12 295.002 (1)(a) and (b) [*and does not include*].

13 (b) "**Uninsured public funds" or "uninsured public funds deposits" does not include** public
14 funds deposited in a certificate of deposit or time deposit under ORS 295.004 (1) **or public funds**
15 **that an Oregon bank depository arranges to deposit into an insured deposit account under**
16 **ORS 295.004 (2).**

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

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

20 **SECTION 4.** ORS 295.001, as amended by section 1, chapter 101, Oregon Laws 2010, is amended
21 to read:

22 295.001. As used in ORS 295.001 to 295.108, unless the context requires otherwise:

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

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

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

28 (b) Complies with ORS 295.008.

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

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

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

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

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

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

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

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

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

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

1 (B) Complies with ORS 295.008; and

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

4 (7) "Custodian's receipt" or "receipt" means a document issued by a custodian that describes the
5 securities that a depository deposited with the custodian to secure public fund deposits.

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

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

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

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

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

14 (b) Appoints a receiver for a depository.

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

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

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

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

22 (a) For a well capitalized depository that the State Treasurer has not required to increase the
23 depository's collateral pursuant to ORS 295.018, 10 percent of the greater of:

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

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

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

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

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

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

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

37 (c) For an adequately capitalized depository or an undercapitalized depository, 110 percent of
38 the greater of:

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

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

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

45 (15) "Pledge agreement" means a written agreement among an insured institution, trust company

1 or credit union, the State Treasurer and a custodian that pledges the securities the insured institu-
2 tion, trust company or credit union deposits with the custodian as collateral for deposits of
3 uninsured public funds that the insured institution, trust company or credit union holds. The board
4 of directors or loan committee of the insured institution, trust company or credit union must ap-
5 prove the agreement and must continuously maintain the agreement as a written record of the in-
6 sured institution, trust company or credit union.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (j) Collateralized mortgage obligations and real estate mortgage investment conduits that are
45 rated in one of the two highest grades by a recognized investment service organization that has

1 engaged regularly and continuously for a period of not less than 10 years in rating corporate debt
2 obligations.

3 (20) "Treasurer report" means a written report that an officer of a depository that holds
4 uninsured public funds deposits has signed or authenticated and that sets forth as of the close of
5 business on a specified date:

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

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

8 (c) The net worth of the depository;

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

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

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

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

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

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

21 (b) "Uninsured public funds" or "uninsured public funds deposits" does not include public funds
22 deposited in a certificate of deposit or time deposit under ORS 295.004 (1) **or public funds that an**
23 **Oregon depository arranges to deposit into an insured deposit account under ORS 295.004**
24 **(2).**

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

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

28 **SECTION 5.** ORS 295.046 is amended to read:

29 295.046. (1) A bank depository may not accept a deposit of public funds if the deposit would
30 cause the aggregate of public funds deposits made by any one public official in the bank depository
31 to exceed at any time the net worth of the bank depository. If a bank depository's net worth is re-
32 duced, the bank depository may allow public funds on deposit in excess of the reduced net worth to
33 remain if the bank depository deposits with its custodian eligible securities valued at market value
34 in an amount at least equal to the amount of the excess public funds deposits. If the additional se-
35 curities required by this section are not deposited with the custodian, the bank depository shall
36 permit the public official to withdraw deposits prior to maturity, including accrued interest, in ac-
37 cordance with applicable statutes and governmental regulations.

38 (2) The limitations of subsection (1) of this section do not apply to:

39 (a) Public funds deposits held by a bank depository in a certificate of deposit or time deposit
40 under ORS 295.004 (1); **or**

41 (b) **Public funds that an Oregon bank depository arranges to deposit into an insured de-**
42 **posit account under ORS 295.004 (2).**

43 **SECTION 6.** ORS 295.046, as amended by section 15, chapter 101, Oregon Laws 2010, is
44 amended to read:

45 295.046. (1) A depository may not accept a deposit of public funds if the deposit would cause the

1 aggregate of public funds deposits that any one public official makes in the depository to exceed at
 2 any time the depository's net worth. If a depository's net worth is reduced, the depository may allow
 3 public funds on deposit in excess of the reduced net worth to remain if the depository deposits with
 4 the depository's custodian eligible securities valued at market value in an amount at least equal to
 5 the amount of the excess public funds deposits. If the additional securities required by this section
 6 are not deposited with the custodian, the depository shall permit the public official to withdraw
 7 deposits prior to maturity, including accrued interest, in accordance with applicable statutes and
 8 governmental regulations.

9 (2) The limitations of subsection (1) of this section do not apply to public funds deposits a de-
 10 pository holds in a certificate of deposit or time deposit under ORS 295.004 (1); or

11 **(b) Public funds that an Oregon depository arranges to deposit into an insured deposit**
 12 **account under ORS 295.004 (2).**

13 **SECTION 7.** ORS 295.048 is amended to read:

14 295.048. (1) Notwithstanding ORS 295.046, a bank depository may not permit the aggregate of
 15 public funds deposits on deposit with the bank depository from all public officials to exceed at any
 16 time:

17 (a) 100 percent of the value of the bank depository's net worth, if the bank depository is an
 18 undercapitalized bank depository;

19 (b) 150 percent of the value of the bank depository's net worth, if the bank depository is an
 20 adequately capitalized bank depository;

21 (c) 200 percent of the value of the bank depository's net worth, if the bank depository is a well
 22 capitalized bank depository; or

23 (d) 30 percent of the total aggregate uninsured public funds deposits of all public officials in all
 24 bank depositories as reported in the most recent notice received by the bank depository from the
 25 State Treasurer.

26 (2) The State Treasurer shall notify each bank depository and its custodian of the total aggre-
 27 gate uninsured public funds deposits of all public officials in all bank depositories, based on the most
 28 recently submitted treasurer reports. The treasurer shall give the notification required by this sub-
 29 section by the last day of the month in which bank depositories are required to submit a treasurer
 30 report.

31 (3) If a bank depository's aggregate of uninsured public funds deposits exceeds the amount set
 32 forth in subsection (1) of this section, the bank depository shall, within three business days after
 33 receipt of notice from the State Treasurer, cease accepting deposits of uninsured public funds.

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

35 (a) A bank depository may accept and hold uninsured public funds deposits in excess of the
 36 limits provided in subsection (1) of this section if the State Treasurer, upon good cause shown, ap-
 37 proves the request of the bank depository to hold uninsured public funds in excess of the limits
 38 provided in subsection (1) of this section for a period not exceeding 90 days and eligible securities
 39 are deposited with the bank depository's custodian as collateral in an amount at least equal to the
 40 amount of the uninsured public funds deposits in excess of the limits provided in subsection (1) of
 41 this section.

42 (b) The limits of subsection (1) of this section do not apply to public funds deposits held by a
 43 bank depository in a certificate of deposit or time deposit under ORS 295.004 (1) **or public funds**
 44 **that an Oregon bank depository arranges to deposit into an insured deposit account under**
 45 **ORS 295.004 (2).**

1 (c) A well capitalized bank depository or an adequately capitalized bank depository may accept
 2 and hold public funds deposits in excess of the limit provided in subsection (1)(d) of this section if
 3 eligible securities are deposited with the bank depository's custodian as collateral in an amount at
 4 least equal to the amount of the public funds deposits in excess of the limit prescribed in subsection
 5 (1)(d) of this section.

6 **SECTION 8.** ORS 295.048, as amended by section 16, chapter 101, Oregon Laws 2010, is
 7 amended to read:

8 295.048. (1) Notwithstanding ORS 295.046, a depository may not permit the aggregate of public
 9 funds deposits on deposit with the depository from all public officials to exceed at any time the
 10 lesser of:

11 (a) 100 percent of the value of the depository's net worth, if the depository is an undercapital-
 12 ized depository;

13 (b) 150 percent of the value of the depository's net worth, if the depository is an adequately
 14 capitalized depository;

15 (c) 200 percent of the value of the depository's net worth, if the depository is a well capitalized
 16 depository;

17 (d) For a bank depository, 30 percent of the total aggregate public funds deposits of all public
 18 officials in all bank depositories as reported in the most recent notice the bank depository received
 19 from the State Treasurer; or

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

23 (2) The State Treasurer shall notify each bank depository or credit union depository and the
 24 depository's custodian of the total aggregate public funds deposits of all public officials in all bank
 25 depositories or credit union depositories, as appropriate, based on the most recently submitted
 26 treasurer reports. The State Treasurer shall give the notification required by this subsection by the
 27 last day of the month in which the depositories are required to submit a treasurer report.

28 (3) If a depository's aggregate of public funds deposits exceeds the amount set forth in sub-
 29 section (1) of this section, the depository shall, within three business days after receiving notice
 30 from the State Treasurer, cease accepting deposits of public funds.

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

32 (a) A depository may accept and hold public funds deposits in excess of the limits specified in
 33 subsection (1) of this section if the State Treasurer, upon good cause shown, approves the
 34 depository's request to hold public funds in excess of the limits specified in subsection (1) of this
 35 section for a period not exceeding 90 days and eligible securities are deposited with the depository's
 36 custodian as collateral in an amount at least equal to the amount of the uninsured public funds de-
 37 posits that exceeds the limits specified in subsection (1) of this section.

38 (b) The limits specified in subsection (1) of this section do not apply to public funds deposits a
 39 depository holds in a certificate of deposit or time deposit under ORS 295.004 (1) **or public funds**
 40 **that an Oregon depository arranges to deposit into an insured deposit account under ORS**
 41 **295.004 (2).**

42 (c) A well capitalized depository or an adequately capitalized depository may accept and hold
 43 public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section if eli-
 44 gible securities are deposited with the depository's custodian as collateral in an amount at least
 45 equal to the amount of the uninsured public funds deposits that exceed the limit specified in sub-

1 section (1)(d) or (e) of this section.

2 **SECTION 9. The amendments to ORS 295.001, 295.004, 295.046 and 295.048 by sections 1**
3 **to 8 of this 2011 Act apply to public funds deposits held on or after the effective date of this**
4 **2011 Act.**

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