

**Enrolled**  
**House Bill 2970**

Sponsored by Representative JENSON; Representative G SMITH (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to state finance; amending ORS 295.048 and 295.101 and sections 13 and 29, chapter 101, Oregon Laws 2010; and declaring an emergency.

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

**SECTION 1.** Section 13, chapter 101, Oregon Laws 2010, is amended to read:

**Sec. 13.** (1) *[Until June 30, 2013,]* The State Treasurer may accept moneys from any public or private source, including a credit union or an association of credit unions, for the purpose of paying initial **or continuing** expenses related to administering the provisions of section 12, **chapter 101, Oregon Laws 2010** *[of this 2010 Act]*.

(2) The State Treasurer shall deposit moneys the State Treasurer receives under this section into the Miscellaneous Receipts Account established for the State Treasurer in the General Fund. Notwithstanding the provisions of ORS 295.106, moneys the State Treasurer receives under this section are continuously appropriated to the State Treasurer for the purpose of paying the State Treasurer's initial **or continuing** expenses related to administering section 12, **chapter 101, Oregon Laws 2010** *[of this 2010 Act]*. The State Treasurer shall expend the moneys in accordance with the terms and conditions upon which the moneys were made available.

**SECTION 2.** Section 29, chapter 101, Oregon Laws 2010, is amended to read:

**Sec. 29.** (1) **Subject to subsection (2) of this section,** sections 12, 13, 13a and 13b, **chapter 101, Oregon Laws 2010,** *[of this 2010 Act]* and the amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by sections 1 to 10, 14 to 23 and 25 to 28, **chapter 101, Oregon Laws 2010,** *[of this 2010 Act]* become operative January 1, 2013.

(2) **If the State Treasurer determines that the conditions described in section 13a (1), chapter 101, Oregon Laws 2010, have been satisfied, the State Treasurer shall implement sections 12 and 13b, chapter 101, Oregon Laws 2010, and the amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by sections 1 to 10, 14 to 23 and 25 to 28, chapter 101, Oregon Laws 2010, not later than 180 days after the date the State Treasurer determines that the conditions described in section 13a (1), chapter 101, Oregon Laws 2010, have been satisfied.**

*[(2)]* (3) The State Treasurer and the Director of the Department of Consumer and Business Services may take any action before January 1, 2013, that is necessary to enable the State Treasurer and the director to exercise, on and after January 1, 2013, all the duties, functions and powers conferred on the State Treasurer and the director by sections 12, 13, 13a and 13b, **chapter 101,**

**Oregon Laws 2010**, [of this 2010 Act] and the amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by sections 1 to 10, 14 to 23 and 25 to 28, **chapter 101, Oregon Laws 2010** [of this 2010 Act].

**SECTION 3.** ORS 295.048 is amended to read:

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

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

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

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

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

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

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

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

(a) A bank depository may accept and hold uninsured public funds deposits in excess of the limits provided in subsection (1) of this section if the State Treasurer, upon good cause shown, approves the request of the bank depository to hold uninsured public funds in excess of the limits provided in subsection (1) of this section for a period not exceeding 90 days and eligible securities are deposited with the bank depository's custodian as collateral in an amount at least equal to the amount of the uninsured public funds deposits in excess of the limits provided in subsection (1) of this section. **Upon the expiration of the 90-day period, if the bank depository does not comply with the limits specified in subsection (1) of this section, the bank depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of uninsured public funds.**

(b) The limits of subsection (1) of this section do not apply to public funds deposits held by a bank depository in a certificate of deposit or time deposit under ORS 295.004.

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

**(5) If the State Treasurer notifies a bank depository that it must cease accepting deposits of uninsured public funds under subsection (3) or (4) of this section, the State Treasurer may also notify public officials who have deposited uninsured public funds in the bank depository that within 15 business days after the public official receives the notice from the State Treasurer, the public official must withdraw from the bank depository to which the notice applies all uninsured public funds deposits that exceed the limit specified in subsection (1)(d) of this section. A public official who is notified by the State Treasurer under this subsection must begin to withdraw funds as specified in the notice. Except as required by any applicable**

**law or regulation, a bank depository may not impose an early withdrawal penalty or a forfeiture of interest with respect to a withdrawal made pursuant to this subsection.**

**SECTION 4.** ORS 295.048, as amended by section 16, chapter 101, Oregon Laws 2010, is amended to read:

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

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

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

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

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

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

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

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

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

(a) A depository may accept and hold public funds deposits in excess of the limits specified in subsection (1) of this section if the State Treasurer, upon good cause shown, approves the depository's request to hold public funds in excess of the limits specified in subsection (1) of this section for a period not exceeding 90 days and eligible securities are deposited with the depository's custodian as collateral in an amount at least equal to the amount of the uninsured public funds deposits that exceeds the limits specified in subsection (1) of this section. **Upon the expiration of the 90-day period, if the depository does not comply with the limits specified in subsection (1) of this section, the depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of public funds.**

(b) The limits specified in subsection (1) of this section do not apply to public funds deposits a depository holds in a certificate of deposit or time deposit under ORS 295.004.

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

**(5) If the State Treasurer notifies a depository that it must cease accepting deposits of public funds under subsection (3) or (4) of this section, the State Treasurer may also notify public officials who have deposited public funds in the depository that within 15 business days after the public official receives the notice from the State Treasurer, the public official must withdraw from the depository to which the notice applies all public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section. A public official who is notified by the State Treasurer under this subsection must begin to withdraw funds as specified in the notice. Except as required by any applicable law or regulation, a depository may not**

**impose an early withdrawal penalty or a forfeiture of interest with respect to a withdrawal made pursuant to this subsection.**

**SECTION 5.** ORS 295.101 is amended to read:

295.101. (1) The following public funds are not subject to the provisions of ORS 295.001 to 295.108:

(a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on bonds, as defined in ORS 286A.001 and 287A.001, and related costs or securing a borrowing related to an agreement for exchange of interest rates entered into under ORS 286A.110 or 287A.335.

(b) Funds that are invested in authorized investments under provisions of law other than ORS 295.001 to 295.108. Funds invested under ORS 293.701 to 293.820 are invested in authorized investments for purposes of this subsection from the time the funds are transferred by the State Treasurer to a third party under the terms of a contract for investment or administration of the funds that requires such a transfer until the time the funds are returned to the treasurer or paid to another party under the terms of the contract.

(c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or by an investment manager under ORS 293.741.

**(d) Funds that are held by a public official and are required by federal law or contractual provisions to be collateralized at 100 percent, if the funds are deposited in an account that is separate from other accounts of the public official in a depository, and the public official and the depository have entered into a written agreement that provides a perfected security interest to the public official in collateral valued at an amount at least equal to the amount of funds in the account in a manner substantially similar to a pledge agreement described in ORS 295.001 (15).**

(2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under ORS 294.035 (3)(d) are subject to the provisions of ORS 295.001 to 295.108.

**SECTION 6. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.**

**Passed by House June 15, 2011**

.....  
Ramona Kenady Line, Chief Clerk of House

.....  
Bruce Hanna, Speaker of House

.....  
Arnie Roblan, Speaker of House

**Passed by Senate June 21, 2011**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2011

**Approved:**

.....M,....., 2011

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2011

.....  
Kate Brown, Secretary of State