

# House Bill 3242

Sponsored by Representative FREEMAN; Representatives HANNA, JOHNSON, NOLAN, ROBLAN, Senators FERRIOLI, VERGER

## 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**.

Includes funds of Native American or Indian tribe in Oregon in definition of "public funds" for which financial institution may pledge security interest in institution's assets as guarantee for deposits.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to deposits of public funds from federally recognized tribes in Oregon; amending ORS  
3 708A.535; and declaring an emergency.

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

5 **SECTION 1.** ORS 708A.535 is amended to read:

6 708A.535. (1) An institution may *[only]* grant security interests in *[its]* **the institution's** assets  
7 **only:**

8 (a) To secure *[its]* **the institution's** indebtedness to a Federal Reserve Bank or Federal Home  
9 Loan Bank.

10 (b) To secure *[its]* **the institution's** borrowings from others *[with]* **that have** a maturity of 90  
11 days or less, provided the value of the assets **the institution** pledged *[shall not be]* **is not** more than  
12 50 percent greater than the amount **the institution** borrowed. If the value of the assets **the in-**  
13 **stitution** pledged is more than 25 percent greater than the amount **the institution** borrowed or if  
14 the amount **the institution** borrowed is greater than the stockholders' equity *[of]* **in** the bank, *[the*  
15 *transaction shall first be approved in writing by]* the Director of the Department of Consumer and  
16 Business Services **must approve the transaction in writing first.**

17 (c) To secure *[its]* **the institution's** deposits that are not insured by the Federal Deposit In-  
18 surance Corporation, provided **that:**

19 (A) The value of aggregate assets **the institution** pledged does not exceed 20 percent of *[its]*  
20 **the institution's** stockholders' equity; and

21 (B) **The institution obtains the director's** prior written approval *[of the director is obtained].*

22 (d) To secure public funds pursuant to ORS 295.001 to 295.108, trust funds awaiting investment  
23 or distribution, or trust funds *[deposited with it by an]* **that another institution deposits with the**  
24 institution.

25 (2) Notwithstanding any other provision of state law, *[when]* **if** an institution grants a security  
26 interest in assets to secure public funds, the depositor of the public funds and *[any]* **a** bailee of  
27 pledged securities or other assets *[shall be]* **is** entitled to the status of a lien creditor as defined in  
28 ORS 79.0102.

29 (3) An institution shall grant a security interest in *[its]* **the institution's** assets only *[when au-*  
30 *thorized by]* **if** a general or specific prior resolution of *[its]* **the institution's** board of directors

**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 **authorizes the institution to grant the security interest.**

2 (4) As used in this section, “public funds” means deposits [*belonging*] **that belong** to:

3 (a) The State of Oregon, **if the funds are** [*that may be*] deposited to the official credit of the  
4 State Treasurer[, *and funds that may be*] **or are** deposited in an official capacity by [*any*] **a** state  
5 officer, board or commission.

6 (b) [*Any*] **A** county within this state, **if the funds are** deposited to the official credit of the  
7 county treasurer, including the funds of [*any*] **an** irrigation or drainage district organized under the  
8 laws of this state, or [*any*] **a** school district within this state [*where*] **if the** funds of the school dis-  
9 trict are deposited with the county treasurer, and funds that [*may be*] **are** deposited in an official  
10 capacity by [*any*] **a** county officer.

11 (c) [*Any*] **A** port, port commission, dock or dock commission within this state, **if the funds are**  
12 [*that may be*] deposited to the credit of the port, port commission, dock or dock commission, or **to**  
13 **the credit of** the treasurer [*thereof*] **of the port, port commission, dock or dock commission.**

14 (d) [*Any*] **A** city within this state, **if the funds are** deposited to the official credit of the city  
15 treasurer, and funds that [*may be*] **are** deposited in an official capacity by [*any*] **an** officer of [*any*]  
16 **a** municipal corporation.

17 (e) [*Any*] **A** school district within this state.

18 (f) [*Any*] **A** district organized under the laws of this state [*with*] **that has** the power to levy  
19 taxes.

20 (g) [*Any*] **A** housing authority organized and operating [*pursuant to*] **under** ORS 456.055 to  
21 456.235.

22 **(h) A federally recognized Native American or Indian tribe in Oregon.**

23 [*(h)*] (i) The United States [*and any of its agencies and instrumentalities to be*] **or an agency or**  
24 **instrumentality of the United States, if the funds are** deposited in the manner and under [*the*]  
25 rules [*prescribed by*] the United States Government **prescribes.**

26 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**  
27 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
28 **on its passage.**

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