

A-Engrossed House Bill 2971

Ordered by the House April 9
Including House Amendments dated April 9

Sponsored by Representative GOMBERG (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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes how certain banks can invest money. The Act changes how public depositories compute their net worth. (Flesch Readability Score: 63.6).
Modifies the allowable investments for certain financial institutions.
Modifies the method of calculating the net worth of qualified depositories.

A BILL FOR AN ACT

Relating to financial institutions; amending ORS 295.001 and 708A.115.

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

SECTION 1. ORS 708A.115 is amended to read:

708A.115. (1) Institutions may invest, without regard to any limitation based on [*stockholders' equity*] **tier 1 capital**, in:

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

(b) Obligations of public housing agencies issued pursuant to the United States Housing Act of 1937, as amended; and

(c) Obligations of the State of Oregon or any county, city, school district, port district or other public body with the power to levy taxes 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 issuing body has not been in default with respect to the payment of principal or interest on any of its obligations within five years preceding the date of the investment.

(2) [*Subject to a limitation of 20 percent of stockholders' equity,*] Institutions may invest in obligations of any other state of the United States or obligations of any out-of-state county, city, school district, port district or other public body in the United States payable from ad valorem taxes, if the obligations 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 obligations.

(3) Obligations received in satisfaction of debts previously contracted in good faith are not subject to the limitations of this section, if the book value of such obligations in excess of the limitations of this section is reduced to the amount allowed under this section within six months after the date the obligations are acquired.

SECTION 2. ORS 295.001 is amended to read:

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

(1) "Adequately capitalized" means a qualified depository that is classified as adequately capi-

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.

talized by the depository's primary federal regulatory authority.

(2) "Bank" means an insured institution or trust company.

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

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

(5) "Collateral" means securities, or a letter of credit or similar instrument intended to ensure payment, that is approved by the State Treasurer to be used as security to ensure the obligations of a qualified depository under this chapter.

(6) "Collateral agreement" means an agreement entered into between a qualified depository and the State Treasurer under which the qualified depository agrees to provide collateral to secure its deposits of public funds and to comply with the provisions of this chapter and such other provisions as the State Treasurer determines are required to adequately protect public funds from loss.

(7) "Credit union" means a credit union as defined in ORS 723.006 or a federal credit union if the shares and deposits of the credit union or federal credit union are insured by the National Credit Union Administration.

(8) "Custodian" means a financial institution that meets the requirements of ORS 295.007.

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

(10) "Depository" means a bank or a credit union that is headquartered or has a branch office located in Oregon.

(11) "Financial institution outside this state" means a financial institution, as defined in ORS 706.008, that is not an extranational institution, as defined in ORS 706.008, and is not a depository, as defined in this section.

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

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

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

(b) Appoints a receiver for a qualified depository.

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

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

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

(15) "Minimum collateral requirement" for a qualified depository on any given date means a sum equal to:

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

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

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

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

(b) For a well capitalized qualified depository that the State Treasurer required to increase the depository's collateral pursuant to ORS 295.018, the percentage the State Treasurer required pur-

1 suant to ORS 295.018 multiplied by the greatest of:

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

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

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

7 (c) For an adequately capitalized qualified depository or an undercapitalized qualified deposi-
8 tory, 110 percent of the greater of:

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

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

12 *[(16) "Net worth" means a qualified depository's total risk-based capital, as shown on the imme-
13 diately preceding report of condition and income, and may include capital notes and debentures that
14 are subordinate to the interests of depositors.]*

15 **(16) "Net worth" means:**

16 **(a) For a qualified depository that is a bank that does not have a community bank lev-
17 erage ratio framework election in effect as of the quarter-end report date, total capital as
18 shown on the immediately preceding report of condition and income, or such other substan-
19 tial equivalent of total capital that the State Treasurer adopts in the treasurer report re-
20 quired by ORS 295.061;**

21 **(b) For a qualified depository that is a bank that has a community bank leverage ratio
22 framework election in effect as of the quarter-end report date, tier 1 capital as shown on the
23 immediately preceding report of condition and income, or such other substantial equivalent
24 of tier 1 capital that the State Treasurer adopts in the treasurer report required by ORS
25 295.061; or**

26 **(c) For a qualified depository that is a credit union, total net worth as shown on the
27 immediately preceding report of condition and income, or such other substantial equivalent
28 of total net worth that the State Treasurer adopts in the treasurer report required by ORS
29 295.061.**

30 (17) "Pledge agreement" means a written agreement among a qualified depository, the State
31 Treasurer and a custodian that pledges the securities the depository deposits with the custodian to
32 secure deposits of uninsured public funds that the depository holds. The board of directors or loan
33 committee of the depository must approve the agreement and must continuously maintain the
34 agreement as a written record of the depository.

35 (18) "Public body" has the meaning given that term in ORS 174.109.

36 (19) "Public funds" or "funds" means funds that a public official has custody of or has control
37 of by virtue of the exclusive legal right of a public body conferred through contract or by law to
38 direct the collection, use or transfer of moneys payable to, belonging to or collected for the public
39 body, while held by a third party such that the failure of the financial institution in which such
40 moneys are deposited would constitute a loss of the public body's money.

41 (20) "Public official" means an officer or employee of a public body.

42 (21) "Qualified depository" means a depository that meets the requirements of ORS 295.008.

43 (22) "Report of condition and income" means the quarterly report a qualified depository submits
44 to the depository's primary federal regulatory authority.

45 (23) "Security" or "securities" means:

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

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

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

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

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

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

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

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

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

25 (h) Bonds, notes, letters of credit issued not as assurance of payment or performance but as an
26 investment or other securities or evidence of indebtedness constituting the direct and general obli-
27 gation of a federal home loan bank or Federal Reserve bank;

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

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

35 (24) "State agency" means any officer, board, commission, department, division or institution of
36 state government as that term is defined in ORS 174.111.

37 (25) "Treasurer report" means a written report that an officer of a qualified depository that
38 holds uninsured public funds deposits has signed or authenticated and that sets forth as of the close
39 of business on a specified date:

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

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

42 (c) The net worth of the qualified depository;

43 (d) The amount and nature of collateral provided; and

44 (e) The identity of the qualified depository's custodian, if applicable.

45 (26) "Treasurer report due date" means a date not less than 10 business days after the date a

1 qualified depository's report of condition and income is due to be submitted.

2 (27) "Trust company" means a trust company as defined in ORS 706.008.

3 (28) "Undercapitalized" means a qualified depository that is classified as undercapitalized, sig-
4 nificantly undercapitalized or critically undercapitalized by the qualified depository's primary fed-
5 eral regulatory authority.

6 (29)(a) "Uninsured public funds" or "uninsured public funds deposits" means public funds de-
7 posited in a depository that exceed the amounts insured or guaranteed as described in ORS 295.002
8 (1)(b).

9 (b) "Uninsured public funds" or "uninsured public funds deposits" does not include public funds
10 deposited in a certificate of deposit, time deposit or insured deposit account under ORS 295.004.

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

12 (31) "Well capitalized" means a qualified depository that is classified as well capitalized by the
13 qualified depository's primary federal regulatory authority.

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