
SECOND SUBSTITUTE HOUSE BILL 1669

State of Washington

61st Legislature

2010 Regular Session

By House Financial Institutions & Insurance (originally sponsored by Representatives Hunt, Hasegawa, Appleton, Miloscia, Warnick, Kirby, Williams, and Ormsby)

READ FIRST TIME 01/19/10.

1 AN ACT Relating to the deposit of public funds; amending RCW
2 35.38.060, 35.58.510, 36.48.060, and 43.08.280; reenacting and amending
3 RCW 39.58.010; adding a new section to chapter 39.58 RCW; and providing
4 an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 39.58.010 and 2009 c 9 s 1 are each reenacted and
7 amended to read as follows:

8 In this chapter, unless the context otherwise requires:

9 (1) "Capitalization" means the measure or measures of
10 capitalization, other than net worth, of a depository applying for
11 designation as or operating as a public depository pursuant to this
12 chapter, based upon regulatory standards of financial institution
13 capitalization adopted by rule or resolution of the commission after
14 consultation with the director of the department of financial
15 institutions;

16 (2) "Collateral" means the particular assets pledged as security to
17 insure payment or performance of the obligations under this chapter as
18 enumerated in RCW 39.58.050;

1 (3) "Commission" means the Washington public deposit protection
2 commission created under RCW 39.58.030;

3 (4) "Commission report" means a formal accounting rendered by all
4 public depositaries to the commission in response to a demand for
5 specific information made by the commission detailing pertinent affairs
6 of each public depositary as of the close of business on a specified
7 date, which is the "commission report date." "Commission report due
8 date" is the last day for the timely filing of a commission report;

9 (5) "Depositary pledge agreement" means a tripartite agreement
10 executed by the commission with a financial institution and its
11 designated trustee. Such agreement shall be approved by the directors
12 or the loan committee of the financial institution and shall
13 continuously be a record of the financial institution. New securities
14 may be pledged under this agreement in substitution of or in addition
15 to securities originally pledged without executing a new agreement;

16 (6) "Director of the department of financial institutions" means
17 the Washington state director of the department of financial
18 institutions;

19 (7) "Eligible collateral" means securities which are enumerated in
20 RCW 39.58.050 (5) and (6) as eligible collateral for public deposits;

21 (8) "Financial institution" means any national or state-chartered
22 commercial bank or trust company, savings bank, (~~(or)~~) savings
23 association, or federal or state-chartered credit union, or branch or
24 branches thereof, located in this state and lawfully engaged in
25 business;

26 (9) "Investment deposits" means time deposits, money market deposit
27 accounts, and savings deposits of public funds available for
28 investment;

29 (10) "Liquidity" means the measure or measures of liquidity of a
30 depositary applying for designation as or operating as a public
31 depositary pursuant to this chapter, based upon regulatory standards of
32 financial institution liquidity adopted by rule or resolution of the
33 commission after consultation with the director of the department of
34 financial institutions;

35 (11) "Loss" means the issuance of an order by a regulatory or
36 supervisory authority or a court of competent jurisdiction (a)
37 restraining a public depositary from making payments of deposit
38 liabilities or (b) appointing a receiver for a public depositary;

1 (12) "Maximum liability," with reference to a public depositary's
2 liability under this chapter for loss per occurrence by another public
3 depositary, on any given date means:

4 (a) A sum equal to ten percent of:

5 (i) All uninsured public deposits held by a public depositary that
6 has not incurred a loss by the then most recent commission report date;
7 or

8 (ii) The average of the balances of said uninsured public deposits
9 on the last four immediately preceding reports required pursuant to RCW
10 39.58.100, whichever amount is greater; or

11 (b) Such other sum or measure as the commission may from time to
12 time set by resolution according to criteria established by rule,
13 consistent with the commission's broad administrative discretion to
14 achieve the objective of RCW 39.58.020.

15 As long as the uninsured public deposits of a public depositary are
16 one hundred percent collateralized by eligible collateral as provided
17 for in RCW 39.58.050, the "maximum liability" of a public depositary
18 that has not incurred a loss may not exceed the amount set forth in (a)
19 of this subsection.

20 This definition of "maximum liability" does not limit the authority
21 of the commission to adjust the collateral requirements of public
22 depositaries pursuant to RCW 39.58.040;

23 (13) "Net worth" of a public depositary means (a) the equity
24 capital as reported to its primary regulatory authority on the
25 quarterly report of condition or statement of condition, or other
26 required report required by its primary regulatory authority or federal
27 deposit insurer, and may include capital notes and debentures which are
28 subordinate to the interests of depositors, or (b) equity capital
29 adjusted by rule or resolution of the commission after consultation
30 with the director of the department of financial institutions;

31 (14) "Public deposit" means public funds on deposit with a public
32 depositary;

33 (15) "Public depositary" means a financial institution (~~which does~~
34 ~~not claim exemption from the payment of any sales or compensating use~~
35 ~~or ad valorem taxes under the laws of this state,)~~ which has been
36 approved by the commission to hold public deposits, and which has
37 segregated for the benefit of the commission eligible collateral having
38 a value of not less than its maximum liability;

1 (16) "Public funds" means moneys under the control of a treasurer,
2 the state treasurer, or custodian belonging to, or held for the benefit
3 of, the state or any of its political subdivisions, public
4 corporations, municipal corporations, agencies, courts, boards,
5 commissions, or committees, including moneys held as trustee, agent, or
6 bailee belonging to, or held for the benefit of, the state or any of
7 its political subdivisions, public corporations, municipal
8 corporations, agencies, courts, boards, commissions, or committees;

9 (17) "Public funds available for investment" means such public
10 funds as are in excess of the anticipated cash needs throughout the
11 duration of the contemplated investment period;

12 (18) "State public depository" means a Washington state-chartered
13 financial institution that is authorized as a public depository under
14 this chapter;

15 (19) "State treasurer" means the treasurer of the state of
16 Washington;

17 (20) "Treasurer" means a county treasurer, a city treasurer, a
18 treasurer of any other municipal corporation, and any other custodian
19 of public funds, except the state treasurer;

20 (21) "Trustee" means a third-party safekeeping agent which has
21 completed a depository pledge agreement with a public depository and
22 the commission. Such third-party safekeeping agent may be the federal
23 reserve bank of San Francisco, the federal home loan bank of Seattle,
24 or such other third-party safekeeping agent approved by the commission.

25 **Sec. 2.** RCW 35.38.060 and 1984 c 177 s 4 are each amended to read
26 as follows:

27 "Financial institution," as used in the foregoing provisions of
28 this chapter, means a branch of a bank engaged in banking in this state
29 in accordance with RCW 30.04.300, and any state bank or trust company,
30 national banking association, stock savings bank, mutual savings bank,
31 ((~~or~~)) savings and loan association, or credit union, which institution
32 is located in this state and lawfully engaged in business.

33 **Sec. 3.** RCW 35.58.510 and 1965 c 7 s 35.58.510 are each amended to
34 read as follows:

35 All banks, trust companies, bankers, savings banks, and
36 institutions, building and loan associations, savings and loan

1 associations, credit unions, investment companies and other persons
2 carrying on a banking or investment business, all insurance companies,
3 insurance associations, and other persons carrying on an insurance
4 business, and all executors, administrators, curators, trustees and
5 other fiduciaries, may legally invest any sinking funds, moneys, or
6 other funds belonging to them or within their control in any bonds or
7 other obligations issued by a metropolitan municipal corporation
8 pursuant to this chapter. Such bonds and other obligations shall be
9 authorized security for all public deposits. It is the purpose of this
10 section to authorize any persons, political subdivisions and officers,
11 public or private, to use any funds owned or controlled by them for the
12 purchase of any such bonds or other obligations. Nothing contained in
13 this section with regard to legal investments shall be construed as
14 relieving any person of any duty of exercising reasonable care in
15 selecting securities.

16 **Sec. 4.** RCW 36.48.060 and 1984 c 177 s 9 are each amended to read
17 as follows:

18 "Financial institution," whenever it occurs in RCW 36.48.010
19 through 36.48.050, means a branch of a bank engaged in banking in this
20 state in accordance with RCW 30.04.300, and any state bank or trust
21 company, national banking association, stock savings bank, mutual
22 savings bank, (~~or~~) savings and loan association, or credit union,
23 which institution is located in this state and lawfully engaged in
24 business.

25 **Sec. 5.** RCW 43.08.280 and 1999 c 293 s 2 are each amended to read
26 as follows:

27 (1) The state treasurer is authorized to negotiate a statewide
28 custody contract for custody services for local governments and
29 institutions of higher education. The term of the contract shall be
30 for a minimum of four years.

31 (2) The state treasurer shall, as soon as is practical after
32 negotiations have been successfully completed, notify local governments
33 and institutions of higher education that a statewide custody contract
34 has been negotiated.

35 (3) Following such notification, each local government or
36 institution of higher education may, at its option, become a signatory

1 to the statewide contract. Each local government or institution of
2 higher education may only become a signatory to the contract by having
3 its authorized local government official or financial officer and the
4 statewide custodian execute the statewide contract. The contract is
5 between the statewide custodian and the respective local government or
6 institution of higher education. It is the responsibility of the local
7 government official or financial officer to fully understand the terms
8 and conditions of the statewide custody contract prior to its
9 execution, and to ensure those terms and conditions are observed by the
10 statewide custodian during the term of the contract.

11 (4) The state treasurer may adopt rules to implement this section,
12 including, but not limited to, those rules deemed necessary to provide
13 for an orderly transition in the event of a different statewide
14 custodian in a new statewide custody contract.

15 (5) Any statewide custodian who becomes a signatory to the
16 statewide custody contract may be exempted from the requirements of
17 chapter 39.58 RCW for the purposes of this section, based on rules
18 adopted by the public deposit protection commission.

19 (6) For the purposes of this section:

20 (a) "Financial institution" means a bank, credit union, or trust
21 company chartered and supervised under state or federal law;

22 (b) "Local government" means any county, city, town, special
23 purpose district, political subdivision, municipal corporation, or
24 quasi-municipal corporation, including any public corporation created
25 by such an entity, which legally possesses and exercises investment
26 authority;

27 (c) "Statewide custody contract" means a contract negotiated
28 between the state treasurer and a financial institution that
29 establishes terms and fees for custody services which are optional to
30 any local government for the term of the contract;

31 (d) "Statewide custodian" means the financial institution with whom
32 the state treasurer has negotiated a statewide custody contract;

33 (e) "Custody services" means services performed by a financial
34 institution such as the settlement, safekeeping, valuation, and market-
35 value reporting of negotiable instruments owned by the local
36 government;

37 (f) "Local government official" means any officer or employee of a
38 local government who has been designated by statute or local charter,

1 ordinance, or resolution as the officer having the authority to invest
2 the funds of the local government. However, the county treasurer is
3 the only local government official for all political subdivisions for
4 which the county treasurer has statutory or contractual authority to
5 invest the funds thereof;

6 (g) "Financial officer" means the board-appointed treasurer of a
7 college, university, community or technical college district, or the
8 state board for community and technical colleges.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 39.58 RCW
10 to read as follows:

11 A credit union approved as a public depository by the commission
12 may not accept funds in excess of the deposit insurance limits of the
13 insurance required under RCW 31.12.408.

14 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2011.

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