H-1412.2

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**SUBSTITUTE HOUSE BILL 1209**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representatives Bergquist, Vick, Kirby, J. Walsh, and Blake)

AN ACT Relating to municipal access to local financial services; amending RCW 39.58.010 and 39.58.105; and repealing RCW 39.58.240.

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

**Sec.**  RCW 39.58.010 and 2016 c 152 s 1 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

(7) "Eligible collateral" means the securities or letters of credit enumerated in RCW 39.58.050 (5), (6), and (7);

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

(9) "Investment deposits" means time deposits, money market deposit accounts, and savings deposits of public funds available for investment. "Investment deposits" do not include time deposits represented by a transferable or a negotiable certificate, instrument, passbook, or statement, or by book entry or otherwise;

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

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

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

(a) A sum equal to ten percent of:

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

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

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

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

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

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

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

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

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

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

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

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

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

(21) "Trustee" means a third-party safekeeping agent which has completed a depositary pledge agreement with a public depositary and the commission. Such third-party safekeeping agent may be a federal home loan bank, or such other third-party safekeeping agent approved by the commission.

**Sec.**  RCW 39.58.105 and 2016 c 152 s 3 are each amended to read as follows:

(1) The commission may require the state auditor or the director of the department of financial institutions, to the extent of their respective authority under applicable federal and Washington state law, to thoroughly investigate and report to it concerning the condition of any financial institution which makes application to become a public depositary, and may also as often as it deems necessary require the state auditor or the director of the department of financial institutions, to the extent of their respective authority under applicable federal and Washington state law, to make such investigation and report concerning the condition of any financial institution which has been designated as a public depositary. The expense of all such investigations or reports shall be borne by the financial institution examined.

(2) In lieu of any such investigation or report, the commission may rely upon information made available to it or the director of the department of financial institutions by the office of the comptroller of the currency, the national credit union administration, the federal deposit insurance corporation, the federal reserve board, any state financial institutions regulatory agency, or any successor state or federal financial institutions regulatory agency, and any such information or data received by the commission shall be kept and maintained in the same manner and have the same protections as examination reports received by the commission from the director of the department of financial institutions pursuant to RCW 30A.04.075(2)(h) ((~~and~~)), 32.04.220(2)(h), and 31.12.565(2)(j).

(3) The director of the department of financial institutions shall in addition advise the commission of any action he or she has directed any state public depositary to take which will result in a reduction of greater than ten percent of the net worth of such depositary as shown on the most recent report it submitted pursuant to RCW 39.58.100.

NEW SECTION. **Sec.**  RCW 39.58.240 (Credit union as public depositary—Conditions) and 2012 c 26 s 1 & 2010 c 36 s 1 are each repealed.

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