
SENATE BILL 5396

State of Washington

65th Legislature

2017 Regular Session

By Senators Angel, Lias, Wellman, O'Ban, Cleveland, Hasegawa, and Hunt

Read first time 01/23/17. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to municipal access to local financial services;
2 amending RCW 39.58.010, 39.58.060, and 39.58.108; and repealing RCW
3 39.58.240.

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

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

7 In this chapter, unless the context otherwise requires:

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

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

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

20 (4) "Commission report" means a formal accounting rendered by all
21 public depositories to the commission in response to a demand for

1 specific information made by the commission detailing pertinent
2 affairs of each public depository as of the close of business on a
3 specified date, which is the "commission report date." "Commission
4 report due date" is the last day for the timely filing of a
5 commission report;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (14) "Public deposit" means public funds on deposit with a public
30 depository;

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

38 (16) "Public funds" means moneys under the control of a
39 treasurer, the state treasurer, or custodian belonging to, or held
40 for the benefit of, the state or any of its political subdivisions,

1 public corporations, municipal corporations, agencies, courts,
2 boards, commissions, or committees, including moneys held as trustee,
3 agent, or bailee belonging to, or held for the benefit of, the state
4 or any of its political subdivisions, public corporations, municipal
5 corporations, agencies, courts, boards, commissions, or committees;

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

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

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

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

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

22 **Sec. 2.** RCW 39.58.060 and 2009 c 9 s 5 are each amended to read
23 as follows:

24 When the commission determines that a loss has occurred in a
25 public depository, it shall as soon as possible make payment to the
26 proper public officers of all funds subject to such loss, pursuant to
27 the following procedures:

28 (1) For the purposes of determining the sums to be paid, the
29 director of the department of financial institutions or the receiver
30 shall, within twenty days after issuance of a restraining order or
31 taking possession of any public depository, ascertain the amount of
32 public funds on deposit therein as disclosed by its records and the
33 amount thereof covered by deposit insurance and provide written
34 verification of the amounts thereof to the commission and each public
35 depositor;

36 (2) Within ten days after receipt of written verification, each
37 public depositor shall furnish to the commission verified statements
38 of its deposits in the public depository, including the uninsured and

1 uncollateralized status of the public deposits, as disclosed by its
2 records;

3 (3) Upon receipt of written verification and statements, the
4 commission shall ascertain and fix the amount of the public deposits,
5 net after deduction of any amount received from deposit insurance and
6 held collateral, and, after determining and declaring the apparent
7 net loss, assess the same against all public depositaries, as
8 follows:

9 (a) If the public depositary in which the loss has occurred is a
10 bank, trust company, savings bank, or savings association, first,
11 against the public depositary in which the loss occurred, to the
12 extent of the full value of collateral segregated pursuant to this
13 chapter; and second, against all other bank, trust company, and
14 savings bank public depositaries pro rata in proportion to the
15 maximum liability of each such depositary as it existed on the date
16 of loss;

17 (b) If the public depositary in which the loss has occurred is a
18 credit union, first, against the public depositary in which the loss
19 occurred, to the extent of the full value of collateral segregated
20 pursuant to this chapter; and second, against all other credit union
21 public depositaries pro rata in proportion to the maximum liability
22 of each such depositary as it existed on the date of loss;

23 (4) Assessments made by the commission shall be payable on the
24 second business day following demand, and in case of the failure of
25 any public depositary so to pay, the commission shall take possession
26 of the securities segregated as collateral by the depositary pursuant
27 to this chapter and liquidate the same for the purpose of paying such
28 assessment;

29 (5) Upon receipt of the assessment payments, the commission shall
30 reimburse the public depositors of the public depositary in which the
31 loss occurred to the extent of the depositary's net deposit liability
32 to them;

33 (6) Any owner of public deposits receiving assessment proceeds
34 shall provide a receivership certificate to the commission.

35 **Sec. 3.** RCW 39.58.108 and 2016 c 152 s 4 are each amended to
36 read as follows:

37 (1) Except as provided in subsections (2) and (3) of this
38 section, any financial institution may become, and thereafter operate
39 as, a public depositary upon approval by the commission and

1 segregation of collateral in the manner as set forth in this chapter,
2 and subject to compliance with all rules and policies adopted by the
3 commission. A public depository shall at all times pledge and
4 segregate eligible collateral in an amount established by the
5 commission by rule or noticed resolution.

6 (2) Solely for the purpose of receiving public deposits that may
7 total no more than the maximum deposit insured by the national credit
8 union share insurance fund, a state-chartered credit union chartered
9 under chapter 31.12 RCW or a credit union chartered under federal law
10 is a public depository subject to RCW 39.58.040 and 39.58.100. The
11 maximum deposit applies to all funds attributable to any one
12 depositor of public funds in any one credit union.

13 (3) A state or federal credit union that has satisfied the
14 requirements of subsection (1) of this section is not authorized to
15 receive public deposits that total more than the maximum deposit
16 insured by the national credit union share insurance fund unless at
17 least four other state or federal credit unions have satisfied the
18 requirements of subsection (1) of this section.

19 (4) At any time at which there are less than ten state or federal
20 credit unions authorized under subsection (1) of this section to
21 receive public deposits in excess of the maximum deposit insured by
22 the national credit union share insurance fund, the maximum liability
23 for each such credit union means:

24 (a) A sum equal to twenty percent of:

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

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

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

35 NEW SECTION. Sec. 4. RCW 39.58.240 (Credit union as public
36 depository—Conditions) and 2012 c 26 s 1 & 2010 c 36 s 1 are each
37 repealed.

--- END ---