

allowed not more than a per diem and such mileage, if any, as to the court shall seem just and equitable under all circumstances.

Passed the Senate April 8, 1975.

Passed the House May 16, 1975.

Approved by the Governor May 26, 1975.

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CHAPTER 77

[Substitute Senate Bill No. 2249]

PUBLIC DEPOSITARIES

AN ACT Relating to public depositaries; amending section 1, chapter 193, Laws of 1969 ex. sess. as amended by section 9, chapter 126, Laws of 1973 and RCW 39.58.010; amending section 4, chapter 193, Laws of 1969 ex. sess. and RCW 39.58.040; amending section 5, chapter 193, Laws of 1969 ex. sess. as amended by section 11, chapter 126, Laws of 1973 and RCW 39.58.050; amending section 43.85.010, chapter 8, Laws of 1965 as last amended by section 15, chapter 126, Laws of 1973 and RCW 43.85.010; and adding new sections to chapter 39.58 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 193, Laws of 1969 ex. sess. as amended by section 9, chapter 126, Laws of 1973 and RCW 39.58.010 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Public deposit" means moneys of the state or of any county, city or town, or other political subdivision of the state or any commission, committee, board or officer thereof or any court of the state deposited in any qualified public depository, including moneys held as trustee, agent, or bailee by the state, any county, city or town, or other political subdivision of the state, or any commission, committee, board or office thereof or any court of the state, when deposited in any qualified public depository;

(2) "Qualified public depository" means a state bank or trust company ((or)), national banking association, or any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300 which is located in this state and which receives or holds public deposits and segregates eligible collateral for public deposits as described in RCW 39.58.050 as now or hereafter amended;

(3) "Loss" means issuance of an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or the appointment of a receiver for a qualified public depository;

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

(5) "Eligible collateral" means collateral which is eligible as security for public deposits pursuant to applicable state law;

(6) The "maximum liability" of a qualified public depository means a sum equal to five percent of (a) all public deposits held by the qualified public depository ((as determined by the average)) on the then most recent call report date, or (b) the average of the balances of said public deposits on the last four immediately preceding reports required pursuant to RCW 39.58.100, whichever amount is greater, less any assessments made under this chapter;

(7) "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;

(8) "Investment deposits" means bank time deposits and savings deposits of public funds available for investment;

(9) "Treasurer" shall mean the state treasurer, a county treasurer, a city treasurer, a treasurer of any other municipal corporation, and the custodian of any other public funds.

Sec. 2. Section 4, chapter 193, Laws of 1969 ex. sess. and RCW 39.58.040 are each amended to read as follows:

The commission shall have power (1) to make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter; (2) to require any qualified public depository to furnish such information dealing ~~((only))~~ with public deposits and the exact status of its capital, surplus, and undivided profits as the commission shall request. Any public depository which refuses or neglects to give promptly and accurately or to allow verification of any information so requested shall no longer be a qualified public depository and shall be excluded from the right to receive or hold public deposits until such time as the commission shall acknowledge that such depository has furnished the information requested; (3) to take such action as it deems best for the protection, collection, compromise or settlement of any claim arising in case of loss; (4) to prescribe regulations, subject to this chapter, fixing the requirements for qualification of banks as public depositories, and fixing other terms and conditions consistent with this chapter, under which public deposits may be received and held; (5) to fix the official date on which any loss shall be deemed to have occurred taking into consideration the orders, rules and regulations of supervisory authority as they affect the failure or inability of a qualified public depository to repay public deposits in full; (6) in case loss occurs in more than one qualified public depository, to determine the allocation and time of payment of any sums due to public depositories under this chapter.

Sec. 3. Section 5, chapter 193, Laws of 1969 ex. sess. as amended by section 11, chapter 126, Laws of 1973 and RCW 39.58.050 are each amended to read as follows:

(1) Every qualified public depository shall at all times maintain, segregated from its other assets, eligible collateral in the form of securities enumerated in this section having a value at least equal to its maximum liability under this chapter. Such collateral may be segregated by deposit in the trust department of the depository or in such other manner as the commission approves and shall be clearly designated as security for the benefit of public depositors under this chapter. (2) Securities eligible as collateral shall be valued at face value or market value as determined by the commission. (3) The depository shall have the right to make substitutions of such collateral at any time. (4) The income from the securities which have been segregated as collateral shall belong to the depository bank without restriction.

Each of the following enumerated classes of securities, providing there has been no default in the payment of principal or interest thereon, shall be eligible to qualify as collateral:

(a) Bonds, notes, or other securities constituting direct and general obligations of the United States or the bonds, notes, or other securities constituting the direct and general obligation of any instrumentality of the United States, the interest and principal of which is unconditionally guaranteed by the United States;

(b) (i) Direct and general obligation bonds and warrants of the state of Washington or of any other state of the United States;

(ii) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof;

(c) Direct and general obligation bonds and warrants of any city, town, county, school district, port district, or other political subdivision of the state, having the power to levy general taxes, which are payable from general ad valorem taxes;

(d) Bonds issued by public utility districts as authorized under the provisions of Title 54 RCW, as now or hereafter amended;

(e) Bonds of any city of the state of Washington for the payment of which the entire revenues of the city's water system, power and light system, or both, less maintenance and operating costs, are irrevocably pledged, even though such bonds are not general obligations of such city;

(f) In addition to the securities enumerated in subsections (a) through (e) of this section, every public depository may also segregate such bonds, securities and other obligations as are designated to be authorized security for all public deposits pursuant to RCW 35.58.510, 35.81.110, 35.82.220, 39.60.030, 39.60.040 and 54.24.120, as now or hereafter amended.

The commission may at any time or times declare any particular security as ineligible to qualify as collateral when in the commission's judgment it is deemed desirable to do so.

~~((The commission may require the state auditor or the supervisor of banking to thoroughly investigate and report to it concerning the condition of any bank which makes application to become a qualified public depository for state funds, and may also as often as it deems necessary require such investigation and report concerning the condition of any bank which has been designated as such depository, with the expense of the investigation to be borne by the depository examined. In lieu of such investigation or report, the commission may rely upon reports made available to it by the comptroller of the currency and the director of the federal deposit insurance corporation.))~~

NEW SECTION. Sec. 4. There is added to chapter 39.58 RCW a new section to read as follows:

Each public depository shall within five working days of the event notify the commission in writing when the aggregate of the capital, surplus, and undivided profits of such depository has been reduced by an amount equal to or greater than ten percent of the amount shown as the capital accounts on the last report submitted to the commission as required by RCW 39.58.100.

NEW SECTION. Sec. 5. There is added to section 39.58 RCW a new section to read as follows:

The commission may require the state auditor or the supervisor of banking to thoroughly investigate and report to it concerning the condition of any bank which makes application to become a qualified public depository, and may also as often as it deems necessary require such investigation and report concerning the

condition of any bank which has been designated as such depository. The expense of any of the foregoing investigations or reports shall be borne by the depository examined. In lieu of such investigation or report, the commission may rely upon information made available to it or the supervisor of banking by the office of the comptroller of the currency, the federal deposit insurance corporation, or the federal reserve board.

The supervisor of banking shall in addition advise the commission of any action the supervisor has directed any qualified public depository to take which would result in a reduction, equal to or greater than ten percent, of the aggregate of the capital, surplus, and undivided profits of such depository.

NEW SECTION. Sec. 6. There is added to chapter 39.58 RCW a new section to read as follows:

Newly chartered banks in the state of Washington may become qualified depositories upon approval by the commission and segregation of collateral in the manner as set forth in this chapter, and upon compliance with all rules as promulgated by the commission. Until such time as newly chartered depositories have submitted four consecutive reports to the commission as required by RCW 39.58.100, they shall at all times pledge and segregate eligible securities in an amount equal to not less than ten percent of all public funds on deposit in said depository.

Sec. 7. Section 43.85.010, chapter 8, Laws of 1965 as last amended by section 15, chapter 126, Laws of 1973 and RCW 43.85.010 are each amended to read as follows:

Any national or state banking corporation, or other incorporated bank, or branch banks or branches thereof, authorized to do business in the state and approved by the public deposit protection commission, may, upon segregating collateral as provided in RCW 39.58.050 as now or hereafter amended and upon compliance with all other requirements of law, become a qualified public depository.

No state funds shall be deposited in any institution other than a qualified public depository except that such funds may be deposited in exempted institutions as defined in RCW 39.58.110 and subject to the limitations referred to therein.

The record of the proceedings of the commission shall be kept in the office of the commission and a duly certified copy thereof, or any part thereof, shall be admissible in evidence in any action or proceedings in any court of this state.

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