



Senate

General Assembly

File No. 259

January Session, 2013

Substitute Senate Bill No. 827

Senate, April 2, 2013

The Committee on Banks reported through SEN. LEONE of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PUBLIC DEPOSITS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (3) of section 36a-330 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (3) "Eligible collateral" means [(A) United States treasury bills, notes
5 and bonds, (B) United States government agency securities, (C) United
6 States agency variable-rate securities, (D) mortgage pass-through or
7 participation certificates or similar securities, (E) performing one-to-
8 four-family residential mortgage loans that meet the following criteria:
9 (i) The mortgage loan has a loan-to-value ratio which is less than or
10 equal to eighty per cent for loans without private mortgage insurance,
11 or a loan-to-value ratio which is less than or equal to ninety-five per
12 cent for loans with private mortgage insurance; and (ii) the mortgage
13 loan has a payment history of not more than one payment over thirty
14 days in arrears during the past twelve consecutive months or, if the
15 loan has a payment history of less than twelve months in duration, the

16 loan meets the documentation requirements of the Federal National
17 Mortgage Association or the Federal Home Loan Mortgage
18 Corporation; provided, in the case of a subsequent default under any
19 such mortgage loan that continues uncured for more than sixty days,
20 such loan shall no longer qualify as eligible collateral and shall be
21 replaced by a performing mortgage loan that meets the criteria set
22 forth in this subdivision, and (F) state and municipal bonds;] the
23 following investments for which prices or values are quoted or readily
24 available: (A) General obligations that are guaranteed fully as to
25 principal and interest by the United States or this state or for which the
26 full faith and credit of the United States or this state is pledged for the
27 payment of principal and interest; (B) general obligations of any
28 agency of the United States, including government sponsored
29 enterprises, which are not guaranteed fully as to principal and interest
30 by the United States or for which the full faith and credit of the United
31 States is not pledged for the payment of principal and interest; (C)
32 mortgage pass-through or participation certificates or similar securities
33 that have been issued or guaranteed by the Federal National Mortgage
34 Association, Federal Home Loan Mortgage Corporation or
35 Government National Mortgage Association; (D) general obligations of
36 municipalities and states other than this state that are rated in the three
37 highest rating categories by a rating agency recognized by the
38 commissioner; and (E) revenue obligations for essential services,
39 including education, transportation, emergency, water and sewer
40 services of municipalities and states that are rated in the three highest
41 rating categories by a rating agency recognized by the commissioner
42 and that are determined to be a prudent investment by the governing
43 board of the qualified public depository, by a management committee
44 or board committee appointed by such governing board or by an
45 officer appointed by such governing board, management committee or
46 board committee;

47 Sec. 2. Section 36a-333 of the general statutes is repealed and the
48 following is substituted in lieu thereof (*Effective from passage*):

49 [(a) To secure public deposits, each qualified public depository shall

50 at all times maintain, segregated from its other assets as provided in
51 subsection (b) of this section, eligible collateral in an amount at least
52 equal to the following percentage of uninsured public deposits held by
53 the depository: (1) For any qualified public depository having a risk-
54 based capital ratio of ten per cent or greater, a sum equal to ten per
55 cent of all uninsured public deposits held by the depository; (2) for any
56 qualified public depository having a risk-based capital ratio of less
57 than ten per cent but greater than or equal to eight per cent, a sum
58 equal to twenty-five per cent of all uninsured public deposits held by
59 the depository; (3) for any qualified public depository having a risk-
60 based capital ratio of less than eight per cent but greater than or equal
61 to three per cent, a sum equal to one hundred per cent of all uninsured
62 public deposits held by the depository; (4) for any qualified public
63 depository having a risk-based capital ratio of less than three per cent,
64 and, notwithstanding the provisions of subdivisions (1) to (3),
65 inclusive, of this subsection, for any qualified public depository which
66 has been conducting business in this state for a period of less than two
67 years except for a qualified public depository that is a successor
68 institution to a qualified public depository which conducted business
69 in this state for two years or more, a sum equal to one hundred twenty
70 per cent of all uninsured public deposits held by the depository;
71 provided, the qualified public depository and the public depositor
72 may agree on an amount of eligible collateral to be maintained by the
73 depository that is greater than the minimum amounts required under
74 subdivisions (1) to (4), inclusive, of this subsection; (5) notwithstanding
75 the risk-based capital ratio provisions of subdivisions (1) to (3),
76 inclusive, of this subsection, for any qualified public depository that is
77 an uninsured bank, a sum equal to one hundred twenty per cent of all
78 public deposits held by the depository; and (6) notwithstanding the
79 risk-based capital ratio provisions of subdivisions (1) to (3), inclusive,
80 of this subsection, for any qualified public depository that is subject to
81 an order to cease and desist, consent order or a preliminary warning
82 letter, or has entered into a stipulation and agreement, memorandum
83 of understanding or a letter of understanding and agreement with a
84 bank or credit union supervisor, a sum equal to one hundred twenty

85 per cent of all uninsured public deposits held by the depository, or, in
86 the case of such a qualified public depository that satisfies the
87 requirements of subsection (f) of this section, a sum equal to one
88 hundred per cent of all uninsured public deposits held by the
89 depository.]

90 (a) (1) To secure public deposits, each qualified public depository
91 that is not under a formal regulatory order shall at all times maintain,
92 segregated from its other assets as provided in subsection (b) of this
93 section, eligible collateral in an amount not less than twenty-five per
94 cent of all uninsured public deposits held by the depository, provided
95 if such depository: (A) Is a bank or out-of-state bank having a tier one
96 leverage ratio of not less than six per cent and a risk-based capital ratio
97 of not less than twelve per cent, or is a credit union or federal credit
98 union having a net worth ratio of not less than eight per cent, the
99 amount of eligible collateral shall be a sum not less than ten per cent of
100 all uninsured deposits held by the depository; or (B) is a bank or out-
101 of-state bank having a tier one leverage ratio of less than five per cent
102 or a risk-based capital ratio of less than ten per cent, or is a credit
103 union or federal credit union having a net worth ratio of less than
104 seven per cent, the amount of eligible collateral shall be not less than a
105 sum equal to one hundred ten per cent of all uninsured public deposits
106 held by the depository.

107 (2) Notwithstanding the provisions of subdivisions (1) and (3) of
108 this subsection, to secure public deposits, each qualified public
109 depository that (A) has been conducting business in this state for a
110 period of less than two years, except for a depository that is a successor
111 institution to a depository which conducted business in this state for
112 two years or more, or (B) is an uninsured bank, shall at all times
113 maintain, segregated from its other assets as required under subsection
114 (b) of this section, eligible collateral in an amount not less than one
115 hundred twenty per cent of all uninsured public deposits held by the
116 depository.

117 (3) To secure public deposits, each qualified public depository that

118 is under a formal regulatory order shall at all times maintain,
119 segregated from its other assets as required under subsection (b) of this
120 section, eligible collateral in an amount not less than one hundred ten
121 per cent of all uninsured public deposits held by the depository.
122 However, if such regulatory order is not related to capital, asset
123 quality, earnings or liquidity, the depository notifies each of its public
124 depositors of the issuance of such order and such depository is a bank
125 or out-of-state bank having a tier one leverage ratio of not less than
126 five per cent and risk-based capital ratio of not less than ten per cent or
127 a credit union or federal credit union having a net worth ratio of not
128 less than seven per cent, such depository may reduce the amount of
129 eligible collateral it is required to maintain under this subdivision to an
130 amount not less than seventy-five per cent of all uninsured public
131 deposits held by the depository, provided if such depository is a bank
132 or out-of-state bank having a tier one leverage ratio of not less than
133 seven and one-half per cent and a risk-based capital ratio of not less
134 than fourteen per cent or a credit union or federal credit union having
135 a net worth ratio of not less than nine and one-half per cent, the
136 amount of eligible collateral may be reduced to a sum not less than
137 fifty per cent of all uninsured public deposits held by the depository.

138 (4) Notwithstanding the provisions of this subsection, the qualified
139 public depository and the public depositor may agree on an amount of
140 eligible collateral to be maintained by the depository that is greater
141 than the minimum amounts required under [subdivisions (1) to (6),
142 inclusive,] subdivision (1) or (3) of this subsection, as applicable. For
143 purposes of this subsection, the amount of all uninsured public
144 deposits held by the depository shall be determined at the close of
145 business on the day of receipt of any public deposit and any deficiency
146 in the amount of eligible collateral required under this section shall be
147 cured not later than the close of business on the following business
148 day. For purposes of this subsection, the depository's tier one leverage
149 ratio and risk-based capital ratio or net worth ratio shall be
150 determined, in accordance with applicable federal regulations and
151 regulations adopted by the commissioner in accordance with chapter
152 54, based on the most recent quarterly call report, provided [(A)] if,

153 during any calendar quarter after the issuance of such report, the
154 depository experiences a decline in its tier one leverage ratio, risk-
155 based capital ratio or net worth ratio to a level that would require the
156 depository to maintain a higher amount of eligible collateral under
157 [subdivisions (1) to (4), inclusive, or subdivision (6)] subdivision (1) or
158 (3) of this subsection, the depository shall increase the amount of
159 eligible collateral maintained by it to the minimum required under
160 [subdivisions (1) to (4), inclusive, or subdivision (6)] subdivision (1) or
161 (3) of this subsection, as applicable, based on such lower tier one
162 leverage ratio, risk-based capital ratio or net worth ratio and shall
163 notify the commissioner of its actions. [; and (B) if, during any calendar
164 quarter after the issuance of such report, the commissioner reasonably
165 determines that the depository's risk-based capital ratio is likely to
166 decline to a level that would require the depository to maintain a
167 higher amount of eligible collateral under subdivisions (1) to (4),
168 inclusive, or subdivision (6) of this subsection, the commissioner may
169 require that the depository increase the amount of eligible collateral
170 maintained by it to the minimum required under subdivisions (1) to
171 (4), inclusive, or subdivision (6) of this subsection, as applicable, based
172 on the commissioner's determination of such lower risk-based capital
173 ratio. For purposes of determining the minimum market value of the
174 eligible collateral under subsection (e) of this section, a qualified public
175 depository shall apply the collateral ratio using uninsured public
176 deposits.] The commissioner may, at any time, require the depository
177 to increase its eligible collateral to an amount greater than that
178 required by subdivision (1) or (3) of this subsection, as applicable, up
179 to a maximum amount of one hundred twenty per cent, if the
180 commissioner reasonably determines that such increase is necessary
181 for the protection of public deposits. If the commissioner determines
182 that such increase in eligible collateral is no longer necessary for the
183 protection of public deposits, the commissioner may allow the
184 depository to adjust the amount downward, as the circumstances
185 warrant, to an amount not less than the minimum amount required by
186 subdivision (1) or (3) of this subsection, as applicable.

187 (5) For purposes of this subsection, "formal regulatory order" means

188 a written agreement related to enforcement, including a letter of
189 understanding or agreement or a written order, that a supervisory
190 agency is required to publish or publishes on its web site, but does not
191 include any written agreement or written order under which the sole
192 obligation of the depository is to pay a civil money penalty, fine or
193 restitution.

194 (b) Each qualified public depository that is a bank or out-of-state
195 bank having a tier one leverage ratio of five per cent or greater or a
196 risk-based capital ratio of [eight] ten per cent or greater shall transfer
197 eligible collateral maintained under subsection (a) of this section to its
198 own trust department, provided such trust department is located in
199 this state unless the commissioner approves otherwise, to the trust
200 department of another financial institution, provided such eligible
201 collateral shall be maintained in such other financial institution's trust
202 department located in this state unless the commissioner approves
203 otherwise, or to a federal reserve bank or federal home loan bank. Each
204 qualified public depository that is a bank or out-of-state bank having a
205 tier one leverage ratio of less than five per cent or a risk-based capital
206 ratio of less than [eight] ten per cent and each qualified public
207 depository that is a credit union or federal credit union shall transfer
208 eligible collateral maintained under subsection (a) of this section to the
209 trust department of a financial institution that is not owned or
210 controlled by the depository or by a holding company owning or
211 controlling the depository, provided such eligible collateral shall be
212 maintained in such other financial institution's trust department
213 located in this state unless the commissioner approves otherwise, or to
214 a federal reserve bank or federal home loan bank. Such transfers of
215 eligible collateral shall be made in a manner prescribed by the
216 commissioner. [Eligible collateral shall be valued at market value or as
217 determined by the commissioner if market value is not readily
218 determinable, and the] The qualified public depository shall determine
219 and adjust the market value of such eligible collateral [shall be
220 determined and adjusted on a quarterly] on a monthly basis. Without
221 the requirement of any further action, the commissioner shall have, for
222 the benefit of public depositors, a perfected security interest in all such

223 eligible collateral held in such segregated trust accounts, granted
 224 pursuant to and in accordance with the terms of the agreement
 225 between the public depositor and the qualified public depository. Such
 226 security interest shall have priority over all other perfected security
 227 interests and liens. The commissioner may, at any time, require the
 228 depository to value the collateral more frequently than monthly if the
 229 commissioner reasonably determines that such valuation is necessary
 230 for the protection of public deposits. Each holder of eligible collateral
 231 shall file with the commissioner, at the end of each calendar quarter, a
 232 report with the CUSIP number, description and par value of each
 233 investment it holds as eligible collateral.

234 (c) The depository shall have the right to make substitutions of
 235 eligible collateral at any time without notice. The depository shall have
 236 the right to reduce the amount of eligible collateral maintained by it
 237 that is in excess of the amount required under subsection (a) of this
 238 section. [provided such reduction shall be determined based on the
 239 amount of all uninsured public deposits held by the depository and
 240 the depository's risk-based capital ratio as determined in accordance
 241 with said subsection (a). The depository shall provide written notice to
 242 its public depositors of any such reduction in the amount of eligible
 243 collateral maintained under subsection (a) of this section.]

244 [(d)] The income from the assets which constitute segregated
 245 eligible collateral shall belong to the depository without restriction.

246 [(e) Eligible collateral pledged to secure public deposits under
 247 subsection (a) of this section shall have a minimum market value as
 248 expressed in the following collateral ratios:

T1		Collateral Ratio
T2	Form of Eligible	(Market value
T3	Collateral Pledged	divided by public
T4		deposit plus
T5		accrued interest)

T6	1. United States Treasury bills, notes and bonds	
T7	A. Maturing in less than one year	102%
T8	B. Maturing in one to five years	105%
T9	C. Maturing in more than five years	110%
T10	D. Zero-coupon treasury securities with	
T11	maturities exceeding ten years	120%
T12	2. Actively traded United States government	
T13	agency securities	
T14	A. Maturing in less than one year	103%
T15	B. Maturing in one to five years	107%
T16	C. Maturing in more than five years	115%
T17	3. United States government agency	
T18	variable rate securities	103%
T19	4. Government National Mortgage Association	
T20	mortgage pass-through or participation	
T21	certificates or similar securities	
T22	A. Current issues	115%
T23	B. Older issues	120%
T24	C. Issues for which prices are not quoted	125%
T25	5. Other United States government securities	125%
T26	6. Other mortgage pass-through or participation	
T27	certificates or similar securities	125%
T28	7. One-to-four family residential mortgages	125%
T29	8. State and municipal bonds	
T30	A. General obligation bonds	
T31	i. Maturing in less than one year	102%
T32	ii. Maturing in one to five years	107%
T33	iii. Maturing in more than five years	110%
T34	B. Revenue bonds	
T35	i. Maturing in less than one year	105-110%
T36	ii. Maturing in one to five years	110-120%
T37	iii. Maturing in more than five years	120-130%

249 (f) A qualified public depository that is subject to an order to cease
250 and desist, consent order or a preliminary warning letter, or has
251 entered into a stipulation and agreement, memorandum of
252 understanding or a letter of understanding and agreement with a bank
253 or credit union supervisor, may maintain eligible collateral in a sum
254 equal to or greater than one hundred per cent of all uninsured public
255 deposits held by the depository, provided (1) the depository has a risk-
256 based capital ratio of twelve per cent or greater, and (2) the depository
257 satisfies the following conditions, to the extent applicable: (A) The
258 depository may not pledge eligible collateral in the form described in
259 subsection (e)6. of this section, except for mortgage pass-through or
260 participation certificates or similar securities that have been issued or
261 guaranteed by the Federal National Mortgage Association or the
262 Federal Home Loan Mortgage Corporation and for which prices are
263 quoted; (B) the depository may not pledge eligible collateral in the
264 form described in subsection (e)4.C. of this section; (C) if the public
265 depository pledges eligible collateral in the form described in
266 subsection (e)7. of this section, the collateral ratio for such mortgages
267 shall be one hundred fifty per cent; and (D) if the public depository
268 pledges eligible collateral in the form described in subsection (e)8. of
269 this section, such collateral shall be rated in the three highest rating
270 categories by a rating service recognized by the commissioner. The
271 depository may pledge any other eligible collateral that is not limited
272 by subdivision (2) of this subsection.]

273 Sec. 3. Section 36a-338 of the general statutes is repealed and the
274 following is substituted in lieu thereof (*Effective from passage*):

275 On each call report date, each qualified public depository shall file
276 with the commissioner a written report, certified under oath,
277 indicating (1) the qualified public depository's tier one leverage ratio
278 and risk-based capital ratio [and total capital] or net worth ratio, as
279 determined in accordance with applicable federal regulations and
280 regulations adopted by the commissioner in accordance with chapter
281 54, (2) the uninsured and total amount of public deposits held by the

282 qualified public depository other than deposits that have been
 283 redeposited into the qualified public depository by another insured
 284 depository institution pursuant to a reciprocal deposit arrangement
 285 that makes such funds eligible for insurance coverage by the Federal
 286 Deposit Insurance Corporation or the National Credit Union
 287 Administration, (3) the [amount and nature] description and market
 288 value of any eligible collateral segregated and designated to secure the
 289 uninsured public deposits in accordance with sections 36a-330 to 36a-
 290 338, inclusive, as amended by this act, and (4) the amount and the
 291 name of the issuer of any letter of credit issued pursuant to section 36a-
 292 337. Each depository shall furnish a copy of its most recent report to
 293 any public depositor having public funds on deposit in the depository,
 294 upon request of the depositor. Any public depository which refuses or
 295 neglects to furnish any report or give any information as required by
 296 this section shall no longer be a qualified public depository and shall
 297 be excluded from the right to receive public deposits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-330(3)
Sec. 2	<i>from passage</i>	36a-333
Sec. 3	<i>from passage</i>	36a-338

BA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill makes clarifying and technical changes to the public deposit laws and results in no fiscal impact to the Department of Banking.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 827*****AN ACT CONCERNING PUBLIC DEPOSITS.*****SUMMARY:**

This bill makes various changes to the public deposits laws.

Under current law, all public deposits must be protected against loss and to secure such deposits all qualified public depositories (QPD) must maintain a specified minimum amount of eligible collateral. "Eligible collateral" are investments for which prices or values are quoted or readily available. The bill restricts the types of investments that can be considered eligible collateral.

By law, a QPD is required to maintain a minimum amount of eligible collateral, separate from its other assets, based on the total amount of uninsured public deposits it holds and the level of risk-based capital (i.e., collateralization requirement). The bill changes the collateralization requirements by:

1. increasing the risk based capital ratio threshold;
2. making a distinction between a QPD that is a bank or out-of-state bank and a QPD that is a state or federal credit union, adding "tier one leverage ratio" as an additional measure for banks and "net worth ratio" as the measure for credit unions (see BACKGROUND);
3. establishing new minimum collateralization levels depending on whether the QPD (a) is not under a formal regulatory order, (b) has been conducting business in the state for less than two years, or (c) is an uninsured bank;
4. changing the conditions under which a QPD and a public

depositor may agree to a collateralization level that is different from the applicable statutory minimum; and

5. giving the commissioner authority to increase the required collateralization level as deemed necessary for the protection of public deposits.

By law, each QPD must transfer the eligible collateral it maintains to a trust account separate from its own assets. The bill sets new thresholds that determine the trust accounts to which the funds must be transferred depending on whether the QPD is a bank or a credit union.

The bill requires a QPD to determine and adjust the market value of eligible collateral on a monthly basis, rather than quarterly, as under current law, and gives the commissioner authority to require more frequent valuations.

The bill makes certain amendments to the QPD's reporting requirements and establishes new filing requirements for holders of eligible collateral.

The bill also makes conforming changes.

EFFECTIVE DATE: Upon passage

ELIGIBLE COLLATERAL

The bill changes the definition of eligible collateral, restricting the investments that are considered eligible collateral. In general:

1. United States treasury bills, notes, and bonds are still allowed as eligible collateral;
2. United States government agency securities and variable-rate securities have been limited to certain kinds;
3. government issued mortgage backed securities are allowed, but privately-issued mortgage backed securities are not allowed;

4. mortgages are no longer allowed; and
5. state and municipal bonds are still allowed but under more restricted parameters.

Specifically, the bill defines “eligible collateral” as the following investments for which prices or values are quoted or readily available:

1. general obligations that the United States or Connecticut guarantees fully as to principal and interest or for which the United States or Connecticut pledges its full faith and credit for the payment of principal and interest;
2. general obligations of any federal agency, including government sponsored enterprises, which are not guaranteed fully as to principal and interest by the United States or for which the full faith and credit of the United States is not pledged for the payment of principal and interest;
3. mortgage pass-through or participation certificates or similar securities that the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association issued or guaranteed;
4. general obligations of municipalities and states other than this state that are rated in the three highest rating categories by a rating agency recognized by the banking commissioner; and
5. revenue obligations for essential services, including education, transportation, emergency, water, and sewer services of municipalities and states that are rated in the three highest rating categories by a rating agency recognized by the commissioner and that are determined to be a prudent investment by the QPD governing board, a management committee or board committee appointed by the governing board, or by an officer appointed by the governing board, management committee, or board committee.

COLLATERAL REQUIREMENTS

By law, each QPD must maintain at all times, separate from its other assets, a minimum amount of eligible collateral to secure public deposits (collateralization level). The bill establishes new minimum collateralization levels for a QPD depending on whether it (1) is or is not under a formal regulatory order, (2) has been conducting business in the state for less than two years, or (3) is an uninsured bank.

Under the bill, “formal regulatory order” means a written agreement related to enforcement, including a letter of understanding or agreement or a written order that a supervisory agency is required to publish or publishes on its web site. It does not include any written agreement or order under which the QPD’s sole obligation is to pay a civil penalty, fine, or restitution.

QPD Not Under a Formal Regulatory Order

The bill requires a QPD that is not under a formal regulatory order to maintain eligible collateral of at least 25% of all uninsured public deposits held by the QPD, with the following exceptions:

1. if the QPD is a bank or out-of-state bank having a tier one leverage ratio of at least 6% and a risk-based capital ratio of at least 12%, or is a credit union or federal credit union having a net worth ratio of at least 8%, the amount of eligible collateral must be at least 10% of all uninsured deposits held by the QPD; or
2. if the QPD is a bank or out-of-state bank having a tier one leverage ratio below 5% or a risk-based capital ratio below 10%, or is a credit union or federal credit union having a net worth ratio below 7%, the amount of eligible collateral must be at least 110% of all uninsured public deposits held by the QPD.

QPD under a Formal Regulatory Order

The bill requires a QPD that is under a formal regulatory order to maintain eligible collateral of at least 110% of all uninsured public deposits held by the QPD. This does not apply when (1) the formal

regulatory order is not related to capital, asset quality, earnings, or liquidity and (2) the QPD notifies each of its public depositors of the issuance of the order. In that case, the required collateral may be reduced as follows:

1. if the QPD is a bank or out-of-state bank having a tier one leverage ratio of at least 5% and risk-based capital ratio of at least 10% or a credit union or federal credit union having a net worth ratio of at least 7%, the QPD may reduce the required amount of eligible collateral to at least 75% of all uninsured public deposits held by the QPD; or
2. if the QPD is a bank or out-of-state bank having a tier one leverage ratio of at least 7.5% and a risk-based capital ratio of at least 14% or a credit union or federal credit union having a net worth ratio of at least 9.5%, the amount of eligible collateral may be reduced to at least 50% of all uninsured public deposits held by the QPD.

QPD Operating in the State for less than two years or Uninsured Bank

The bill requires each QPD that (1) has been conducting business in Connecticut for less than two years, except for a successor institution to a depository that conducted business here for two years or more, or (2) is an uninsured bank, to maintain eligible collateral of at least 120% of all uninsured public deposits held by the QPD.

Eligible Collateral Amounts Determined by Agreement

By law, a QPD and a public depositor may agree on a collateralization level that is greater than the applicable statutory minimum amount required. Under current law, when determining the required statutory minimum, the amount of uninsured public deposit must be determined at the close of business on the day of receipt of any public deposit and any deficiency in the required amount of eligible collateral must be cured no later than the close of business on the following business day.

The bill maintains these requirements, but adds that in determining the minimum required amount of eligible collateral, the QPD's tier one leverage ratio and risk-based capital ratio or net worth ratio must be calculated, in accordance with applicable federal and state regulations, based on the most recent quarterly call report (see BACKGROUND). If, in subsequent calendar quarters, the depository experiences a decline in its tier one leverage ratio, risk-based capital ratio, or net worth ratio such that the agreed upon collateral level is lower than the applicable statutory minimum, the bill requires the QPD to increase the amount of eligible collateral maintained to the applicable statutory minimum. By law, the QPD must notify the commissioner of such actions.

Commissioner's Adjustment of Eligible Collateral Requirements

The bill allows the commissioner to increase the required collateralization level, up to a maximum amount of 120%, if he reasonably determines that the increase is necessary for the protection of public deposits. If he determines that the increase is no longer necessary, he may allow the QPD to reduce the amount to not less than the applicable statutory minimum required amount.

Segregation of Eligible Collateral from Other Assets

By law, each QPD must transfer, in a manner consistent with the commissioner's requirements, the eligible collateral that it maintains to an account separate from its own assets based on the QPD's risk-based capital ratio. The bill increases, from 8% to 10%, the risk-based capital ratio threshold and adds "tier one leverage ratio" as a new measure to determine the accounts to which the funds are to be transferred.

Specifically, if the QPD is a bank or out-of-state bank having a tier one leverage ratio of at least 5% or a risk-based capital ratio of at least 10%, the QPD must transfer eligible collateral to (1) its own trust department within the state, unless approved by the commissioner, (2) another financial institution's trust department within the state, unless approved by the commissioner, or (3) a federal reserve bank or federal home loan bank. If the QPD is a bank or out-of-state bank having a tier

one leverage ratio below 5% or a risk-based capital ratio below 10% or a credit union or federal credit union, the QPD must transfer eligible collateral to (1) the trust department of a financial institution, located in the state, unless approved by the commissioner, that is not owned or controlled by the QPD or by a holding company owning or controlling the QPD, or (2) a federal reserve bank or federal home loan bank.

Other Eligible Collateral Requirements

The bill requires a QPD to determine and adjust the market value of eligible collateral on a monthly basis, instead of quarterly. The bill authorizes the commissioner to require the valuation of the collateral more frequently than monthly if necessary to protect public deposits.

By law, the commissioner has a perfected security interest in all eligible collateral held in the segregated trust accounts. Such interest has priority over all other perfected security interests and liens.

The bill requires each holder of eligible collateral to file a report with the commissioner, at the end of each calendar quarter, containing (1) the CUSIP number (see BACKGROUND) and (2) the description and par value of each investment it holds as eligible collateral.

Under current law, the QPD has the right to reduce the amount of eligible collateral maintained if it gives written notice to its public depositors. The bill allows reductions without written notice, but limits reductions to amounts that are in excess of the applicable statutory minimum required amount. By law, a QPD can make substitutions of eligible collateral at any time without notice and keep the income from the assets.

The bill repeals the provisions that pertain to required minimum collateral market values and the requirements that pertain to QPDs that are subject to cease and desist orders.

QPD REPORTING REQUIREMENTS

By law, each QPD must file a written report with the commissioner. The bill requires the report to include (1) the QPD's tier one leverage

ratio and risk-based capital ratio or net worth ratio, (2) uninsured and total amount of public deposits, and (3) the description and market value of any eligible collateral.

All other reporting requirements remain unchanged, including the requirements to (1) file the report on each call report date (2) certify the report under oath, (3) indicate the amount and name of the issuer of any letters of credit, and (4) provide a copy of the report to public depositors upon request. Failure to furnish any report or give any information as required will result in disqualification and loss of the right to receive public deposits.

BACKGROUND

Qualified Public Depository (QPD)

By law, “qualified public depository” or “depository” means a bank, Connecticut credit union, federal credit union, or an out-of-state bank that maintains a branch in the state, which receives or holds public deposits (CGS § 36a-330(7)).

Public deposit

“Public deposit” means (1) money of the state or its subdivisions, or any commission, committee, board or officer thereof; any housing authority; or any Connecticut court and (2) money held by the Judicial Department in a fiduciary capacity (CGS § 36a-330(6)).

Uninsured Public Deposit

“Uninsured public deposit” means the portion of a public deposit that is not insured or guaranteed by the Federal Deposit Insurance Corporation (FDIC) or by the National Credit Union Administration (NCUA). Amounts of a public deposit that are insured by FDIC or NCUA include amounts that have been redeposited, with the authorization of the public depositor, into deposit accounts in one or more federally insured banks, out-of-state banks, Connecticut credit unions, or federal credit unions, including the qualified public depository, provided the full amounts are eligible for insurance coverage by FDIC or NCUA (CGS § 36a-330(8)).

Tier One Leverage Ratio

Tier one leverage ratio is an evaluative tool used to help determine capital adequacy and place constraints on the degree to which a banking firm can leverage its capital base. The ratio is calculated by dividing Tier one capital by the firm's average total consolidated assets.

Risk-based Capital Ratio

In the case of a bank, “total risk-based capital ratio” means the ratio of qualifying total capital to risk-weighted assets, as calculated in accordance with the FDIC’s Statement of Policy on Risk-Based Capital (12 CFR § 325.2).

In the case of a Connecticut credit union and a federal credit union, “risk-based capital ratio” means net worth divided by total assets (Conn. Agencies Reg. § 36a-333-1).

Net Worth

Net worth means the retained earnings balance of the credit union at the end of a quarter as determined under generally accepted accounting principles (12 C.F.R. § 702.2).

CUSIP Number

CUSIP stands for Committee on Uniform Securities Identification Procedures. A CUSIP number identifies most securities, including: stocks of all registered U.S. and Canadian companies and U.S. government and municipal bonds. The CUSIP system facilitates the clearing and settlement process of securities. The number consists of nine characters (including letters and numbers) that uniquely identify a company or issuer and the type of security.

Quarterly Call Report

All regulated financial institutions in the United States are required to file periodic financial and other information with their respective regulators and other parties. One of the key reports required to be filed is the quarterly Consolidated Report of Condition and Income,

generally referred to as the “call report”. Call reports are due no later than 30 days after the end of each calendar quarter.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/14/2013)