



General Assembly

January Session, 2013

***Raised Bill No. 827***

LCO No. 2704



Referred to Committee on BANKS

Introduced by:  
(BA)

***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2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2013*):

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 October 1, 2013*):

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

50 is not under a formal regulatory order shall at all times maintain,  
51 segregated from its other assets as provided in subsection (b) of this  
52 section, eligible collateral in an amount at least equal to the following  
53 percentage of all uninsured public deposits held by the depository:  
54 [(1)] (A) For any [qualified public] depository that is a bank or out-of-  
55 state bank having a tier one leverage ratio of six per cent or greater and  
56 a risk-based capital ratio of [ten] twelve per cent or greater, and for any  
57 depository that is a credit union or federal credit union having a net  
58 worth ratio of eight per cent or greater, a sum equal to ten per cent; [of  
59 all uninsured public deposits held by the depository; (2)] (B) for any  
60 [qualified public] depository that is a bank or out-of-state bank having  
61 a tier one leverage ratio of less than six per cent but greater than or  
62 equal to five per cent and a risk-based capital ratio of less than [ten]  
63 twelve per cent but greater than or equal to [eight] ten per cent, and for  
64 any depository that is a credit union or federal credit union having a  
65 net worth ratio of less than eight per cent but greater than or equal to  
66 seven per cent, a sum equal to twenty-five per cent; [of all uninsured  
67 public deposits held by the depository; (3)] (C) for any [qualified  
68 public] depository that is a bank or out-of-state bank having a tier one  
69 leverage ratio of less than five per cent and a risk-based capital ratio of  
70 less than [eight] ten per cent [but greater than or equal to three per  
71 cent] and for any depository that is a credit union or federal credit  
72 union having a net worth ratio of less than seven per cent, a sum equal  
73 to one hundred ten per cent. [of all uninsured public deposits held by  
74 the depository; (4) for any qualified public depository having a risk-  
75 based capital ratio of less than three per cent, and, notwithstanding the  
76 provisions of subdivisions (1) to (3), inclusive, of this subsection, for  
77 any qualified public depository which has been conducting business in  
78 this state for a period of less than two years except for a qualified  
79 public depository that is a successor institution to a qualified public  
80 depository which conducted business in this state for two years or  
81 more, a sum equal to one hundred twenty per cent of all uninsured  
82 public deposits held by the depository; provided, the qualified public  
83 depository and the public depositor may agree on an amount of

84 eligible collateral to be maintained by the depository that is greater  
85 than the minimum amounts required under subdivisions (1) to (4),  
86 inclusive, of this subsection; (5) notwithstanding the risk-based capital  
87 ratio provisions of subdivisions (1) to (3), inclusive, of this subsection,  
88 for any qualified public depository that is an uninsured bank, a sum  
89 equal to one hundred twenty per cent of all public deposits held by the  
90 depository; and (6) notwithstanding the risk-based capital ratio  
91 provisions of subdivisions (1) to (3), inclusive, of this subsection, for  
92 any qualified public depository that is subject to an order to cease and  
93 desist, consent order or a preliminary warning letter, or has entered  
94 into a stipulation and agreement, memorandum of understanding or a  
95 letter of understanding and agreement with a bank or credit union  
96 supervisor, a sum equal to one hundred twenty per cent of all  
97 uninsured public deposits held by the depository, or, in the case of  
98 such a qualified public depository that satisfies the requirements of  
99 subsection (f) of this section, a sum equal to one hundred per cent of all  
100 uninsured public deposits held by the depository.]

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

111 (3) To secure public deposits, each qualified public depository that,  
112 on or after October 1, 2012, is under a formal regulatory order shall at  
113 all times maintain, segregated from its other assets as required under  
114 subsection (b) of this section, eligible collateral in an amount not less  
115 than one hundred ten per cent of all uninsured public deposits held by  
116 the depository. However, if such regulatory order is not related to

117 capital, asset quality, earnings or liquidity and the depository notifies  
118 each of its public depositors of the issuance of such order, such  
119 depository may reduce the amount of eligible collateral it is required to  
120 maintain under this subdivision to an amount not less than the  
121 following percentage of all uninsured deposits held by the depository:  
122 (A) For a depository that is a bank or out-of-state bank having a tier  
123 one leverage ratio of seven and one-half per cent or greater and a risk-  
124 based capital ratio of fourteen per cent or greater and, for a depository  
125 that is a credit union or federal credit union having a net worth ratio of  
126 nine and one-half per cent or greater, a sum equal to fifty per cent, and  
127 (B) for a depository that is a bank or out-of-state bank having a tier one  
128 leverage ratio of less than seven and one-half per cent but greater than  
129 or equal to five per cent and risk-based capital ratio of less than  
130 fourteen per cent but equal to or greater than ten per cent and, for a  
131 depository that is a credit union or federal credit union having a net  
132 worth ratio of less than nine and one-half per cent but equal to or  
133 greater than seven per cent, a sum equal to seventy-five per cent.

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

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

183       (5) For purposes of this subsection, "formal regulatory order" means  
184 a written agreement related to enforcement, including a letter of  
185 understanding or agreement or a written order, that a supervisory  
186 agency is required to publish or publishes on its web site, but does not  
187 include any written agreement or written order under which the sole  
188 obligation of the depository is to pay a civil money penalty, fine or  
189 restitution.

190       (b) Each qualified public depository that is a bank or out-of-state  
191 bank having a tier one leverage ratio of five per cent or greater or a  
192 risk-based capital ratio of [eight] ten per cent or greater shall transfer  
193 eligible collateral maintained under subsection (a) of this section to its  
194 own trust department, provided such trust department is located in  
195 this state unless the commissioner approves otherwise, to the trust  
196 department of another financial institution, provided such eligible  
197 collateral shall be maintained in such other financial institution's trust  
198 department located in this state unless the commissioner approves  
199 otherwise, or to a federal reserve bank or federal home loan bank. Each  
200 qualified public depository that is a bank or out-of-state bank having a  
201 tier one leverage ratio of less than five per cent or a risk-based capital  
202 ratio of less than [eight] ten per cent and each qualified public  
203 depository that is a credit union or federal credit union shall transfer  
204 eligible collateral maintained under subsection (a) of this section to the  
205 trust department of a financial institution that is not owned or  
206 controlled by the depository or by a holding company owning or  
207 controlling the depository, provided such eligible collateral shall be  
208 maintained in such other financial institution's trust department  
209 located in this state unless the commissioner approves otherwise, or to  
210 a federal reserve bank or federal home loan bank. Such transfers of  
211 eligible collateral shall be made in a manner prescribed by the  
212 commissioner. [Eligible collateral shall be valued at market value or as  
213 determined by the commissioner if market value is not readily  
214 determinable, and the] The qualified public depository shall determine  
215 and adjust the market value of such eligible collateral [shall be

216 determined and adjusted on a quarterly] on a monthly basis. Without  
217 the requirement of any further action, the commissioner shall have, for  
218 the benefit of public depositors, a perfected security interest in all such  
219 eligible collateral held in such segregated trust accounts, granted  
220 pursuant to and in accordance with the terms of the agreement  
221 between the public depositor and the qualified public depository. Such  
222 security interest shall have priority over all other perfected security  
223 interests and liens. The commissioner may, at any time, require the  
224 depository to value the collateral more frequently than monthly if the  
225 commissioner reasonably determines that such valuation is necessary  
226 for the protection of public deposits. Each holder of eligible collateral  
227 shall file with the commissioner, at the end of each calendar quarter, a  
228 report with the CUSIP number, description and par value of each  
229 investment it holds as eligible collateral.

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

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

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

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%

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

269 Sec. 3. Section 36a-338 of the general statutes is repealed and the  
 270 following is substituted in lieu thereof (*Effective October 1, 2013*):

271 On each call report date, each qualified public depository shall file

272 with the commissioner a written report, certified under oath,  
 273 indicating (1) the qualified public depository's tier one leverage ratio  
 274 and risk-based capital ratio [and total capital] or net worth ratio, as  
 275 determined in accordance with applicable federal regulations and  
 276 regulations adopted by the commissioner in accordance with chapter  
 277 54, (2) the uninsured and total amount of public deposits held by the  
 278 qualified public depository other than deposits that have been  
 279 redeposited into the qualified public depository by another insured  
 280 depository institution pursuant to a reciprocal deposit arrangement  
 281 that makes such funds eligible for insurance coverage by the Federal  
 282 Deposit Insurance Corporation or the National Credit Union  
 283 Administration, (3) the [amount and nature] description and market  
 284 value of any eligible collateral segregated and designated to secure the  
 285 uninsured public deposits in accordance with sections 36a-330 to 36a-  
 286 338, inclusive, as amended by this act, and (4) the amount and the  
 287 name of the issuer of any letter of credit issued pursuant to section 36a-  
 288 337. Each depository shall furnish a copy of its most recent report to  
 289 any public depositor having public funds on deposit in the depository,  
 290 upon request of the depositor. Any public depository which refuses or  
 291 neglects to furnish any report or give any information as required by  
 292 this section shall no longer be a qualified public depository and shall  
 293 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>October 1, 2013</i>	36a-330(3)
Sec. 2	<i>October 1, 2013</i>	36a-333
Sec. 3	<i>October 1, 2013</i>	36a-338

**Statement of Purpose:**

To update public deposit laws.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*