



General Assembly

Substitute Bill No. 827

January Session, 2013



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2 repealed and the following is substituted in lieu thereof (*Effective from*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.*