

1 SB299  
2 127430-2  
3 By Senator Holtzclaw  
4 RFD: Governmental Affairs  
5 First Read: 14-FEB-12

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8 SYNOPSIS: Under existing law, all covered public  
9 entities and covered public officials are required  
10 to place their funds in one or more qualified  
11 public depositories pursuant to the Security for  
12 Alabama Funds Enhancement Program (SAFE Program)  
13 administered by the State Treasurer.

14 This bill would amend certain definitions.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT

19  
20 To amend Section 41-14A-2 of the Code of Alabama  
21 1975, the Security for Alabama Funds Enhancement (SAFE) Act,  
22 to amend certain definitions.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 41-14A-2 of the Code of Alabama  
25 1975, is amended to read as follows:

26 "§41-14A-2.

1           "As used in this chapter, the following words and  
2 terms shall have the following meanings:

3           "(1) AVERAGE MONTHLY BALANCE OF PUBLIC DEPOSITS. The  
4 sum of the average daily balances of public deposits, meaning  
5 the net average daily balances of public deposits determined  
6 without any deduction for deposit insurance, for the reported  
7 month and the 11 months preceding that month, divided by 12.

8           "(2) BOARD OF DIRECTORS or BOARD. The Board of  
9 Directors of the SAFE Program established under Section  
10 41-14A-6. The board of directors shall consist of eight  
11 members.

12           "(3) COLLATERAL-PLEDGING LEVEL or  
13 COLLATERAL-PLEDGING REQUIREMENT. The percentage or percentages  
14 of collateral, in relation to one or more levels of public  
15 deposits held, required to be pledged by a qualified public  
16 depository as determined in accordance with the provisions of  
17 this chapter or rules or orders of the board adopted pursuant  
18 to this chapter.

19           "(4) COVERED PUBLIC ENTITY. The state and its  
20 political subdivisions, including its agencies, departments,  
21 boards, commissions, officers, public institutions of higher  
22 learning as defined in Section 16-5-1, and courts; counties,  
23 including the offices of their public officials, whether  
24 elected or appointed, and any of their agencies, departments,  
25 boards, school districts, commissions, and courts;  
26 municipalities, and any of their agencies, departments,  
27 boards, school districts, commissions, and courts; public

1 corporations, including any public board, authority, or  
2 district, heretofore or hereafter organized or created in this  
3 state pursuant to authorization or determination of any  
4 municipality or municipalities or by any county or counties or  
5 the governing body of any one or more thereof and that receive  
6 any appropriations of funds by action of the Legislature of  
7 this state or any governing body of any political subdivision,  
8 municipality, or county of this state or that receive the  
9 proceeds of any tax levied pursuant to any statute of this  
10 state; any improvement authority incorporated under Chapter 7  
11 of Title 39; any public corporation or instrumentality created  
12 under the statutes of this state enacted prior to January 1,  
13 2001, that expressly provide that depositories of funds of  
14 such public corporation or instrumentality shall pledge  
15 collateral to secure the public corporation's or  
16 instrumentality's deposits; and any other public corporation  
17 created under statutes of this state enacted on or after  
18 January 1, 2001, that provide that the public corporation  
19 shall be subject to the provisions of this chapter.

20 "(5) COVERED PUBLIC OFFICIAL. In the case of the  
21 State of Alabama, the State Treasurer or the State Treasurer's  
22 designee, and, in the case of each other covered public  
23 entity, the treasurer or other chief financial officer or  
24 public official, or designee thereof, responsible for handling  
25 deposits of any funds of such covered public entity.

26 "(6) CUSTODIAN. Any bank, savings association,  
27 credit union, or trust company that:

1           "a. Is organized and existing under the laws of this  
2 state, any other state of the United States, or the United  
3 States.

4           "b. Has executed all forms required under this  
5 chapter or any rule adopted hereunder.

6           "c. Agrees to be subject to the jurisdiction of the  
7 courts of this state, or of courts of the United States which  
8 are located within this state, for the purpose of any  
9 litigation arising out of this chapter.

10          "d. Has been approved pursuant to this chapter to  
11 act as a custodian.

12          "(7) DEFAULT or INSOLVENCY. The failure or refusal  
13 of a qualified public depository to pay any check or warrant  
14 drawn upon sufficient and collected funds by any public  
15 depositor or to return any deposit on demand or at maturity  
16 together with interest as agreed; the issuance of an order by  
17 any supervisory authority restraining such depository from  
18 making payments of deposit liabilities; or the appointment of  
19 a receiver for such depository.

20          "(8) DEPOSIT INSURANCE. That amount of insurance  
21 provided by the Federal Deposit Insurance Corporation or ~~its~~  
22 ~~successor~~ National Credit Union Share Insurance Fund or their  
23 successors, applicable to each public depositor's public  
24 deposits in a particular financial institution.

25          "(9) ELIGIBLE COLLATERAL. Any of the types of  
26 securities or other investment instruments designated as being

1 eligible collateral for state depositories in Section 41-14-35.

2 "(10) FINANCIAL INSTITUTION. A bank, credit union,  
3 or savings association which is organized and existing under  
4 the laws of this state, any other state of the United States,  
5 or the United States, and which is authorized pursuant to the  
6 laws of this state or the United States to conduct, and is  
7 conducting, the business of making loans and taking deposits  
8 in this state.

9 "(11) GENERALLY APPLICABLE PLEDGING LEVEL. Prior to  
10 December 31, 2003, 100 percent of a qualified public  
11 depository's net average daily balance of public deposits; and  
12 on and after December 31, 2003, the percentage of net average  
13 daily balance of public deposits established by the board of  
14 directors as the generally applicable collateral pledging  
15 level for qualified public depositories, provided, however,  
16 that the generally applicable collateral pledging level  
17 established by the board of directors shall not be less than  
18 70 percent of a qualified public depository's net average  
19 daily balance of public deposits.

20 "(12) LOSS PAYMENT FUND. The SAFE Loss Payment Fund  
21 established under Section 41-14A-10.

22 "(13) LOSS TO PUBLIC DEPOSITORS. Loss of all or part  
23 of principal or all or part of interest, or both, or other  
24 earnings on the principal accrued or accruing as of the date  
25 the qualified public depository was declared in default or  
26 insolvent.

1           "(14) NET AVERAGE DAILY BALANCE OF PUBLIC DEPOSITS.  
2           With respect to a reported month, the total of the daily  
3           account balances of all public deposits held by a qualified  
4           public depository, less applicable deposit insurance, divided  
5           by the number of calendar days in the month.

6           "(15) PROGRAM ADMINISTRATION FUND. The SAFE Program  
7           Administration Fund established under Section 41-14A-12.

8           "(16) PROGRAM ENFORCEMENT FUND. The SAFE Program  
9           Enforcement Fund established under Section 41-14A-13.

10          "(17) PUBLIC DEPOSIT. The funds of any covered  
11          public entity or covered public official that are placed on  
12          deposit in a qualified public depository, including, but not  
13          limited to, time deposit accounts, demand deposit accounts,  
14          and certificates of deposit. All certificates of deposit,  
15          whether negotiable or nonnegotiable, shall be considered  
16          deposits and shall be subject to the provisions of this  
17          chapter. Funds held by a financial institution, on behalf of a  
18          covered public entity or covered public official, in  
19          securities and other investment vehicles, including, but not  
20          limited to, bonds, notes, bills, warrants, common trust funds,  
21          money market mutual funds and other mutual funds, investment  
22          trusts, repurchase agreements, and reverse repurchase  
23          agreements and similar instruments are considered investments  
24          and are not public deposits as defined in this subdivision.

25          "(18) PUBLIC DEPOSITOR. Any covered public entity or  
26          covered public official which or who makes a public deposit.

1           "(19) QUALIFIED PUBLIC DEPOSITORY. Any financial  
2 institution that has deposit insurance under the provisions of  
3 the Federal Deposit Insurance Act, 12 U.S.C. § 1811 et seq.,  
4 or National Credit Union Share Insurance Fund, 12 U.S.C. §  
5 1781 et seq., that meets all of the requirements of this  
6 chapter, and that has been designated by the board as a  
7 qualified public depository.

8           "(20) REQUIRED COLLATERAL. That eligible collateral  
9 which is required to be pledged by a qualified public  
10 depository in order to satisfy the qualified public  
11 depository's collateral-pledging requirement.

12           "(21) SAFE COLLATERAL POOL. At any given time, the  
13 aggregate collateral pledged by all qualified public  
14 depositories pursuant to this chapter in connection with the  
15 SAFE Program.

16           "(22) SAFE PROGRAM. The Security for Alabama Funds  
17 Enhancement Program established and to be administered under  
18 this chapter.

19           "(23) STATE TREASURER. The Treasurer of the State of  
20 Alabama."

21           Section 2. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.