

1 HB315
2 127430-2
3 By Representative Ball
4 RFD: Financial Services
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

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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.