

A BILL

AN ACT TO CREATE A DEPOSITORS' GUARANTY FUND TO INSURE DEPOSITORS AGAINST LOSS IF THE BANK BECOMES INSOLVENT AND EMPOWERING THE AUDITOR OF STATE TO LEVY AND COLLECT THE SAME. ADDITIONAL TO TITLE NINE (9), CHAPTER TWELVE (12) OF THE CODE AND CODE SUPPLEMENT.

Be it Enacted by the General Assembly of the State of Iowa:

SECTION 1. The Auditor of State is hereby empowered and directed, within sixty days after the passage and approval of this act, to levy against the capital stock an assessment of one per cent of the banks' daily average deposits, upon each and every bank organized and existing under the laws of this State, for the purpose of creating a depositors' guaranty fund. Said assessment shall be collected upon call of the Auditor of State. In one year after the first assessment is levied, and annually thereafter, each bank subject to the provisions of this act shall report to the Auditor of State the amount of its average daily deposits for the preceding year, and if said deposits are in excess of the amount upon which one per cent was previously paid, said report shall be accompanied by additional funds to equal one per cent of the said average excess of deposits, and each amount shall be added to the depositors' guaranty fund. If the depositors' guaranty fund is depleted from any cause, it shall be the duty of the Auditor of State in order to keep said fund to one per cent of the total deposits in all of said banks, subject to the provisions of this act, to levy a special assessment to cover such deficiency, which special assessment shall be levied upon the capital stock of the banks subject to this act, according to the amount of deposits as reported in the office of the Auditor of State. Said special assessment shall become immediately due and payable.

SEC. 2. Banks organized subsequent to the enactment of this act, shall pay into the depositors' guaranty fund three per cent of the amount of their capital stock when they open for business, which amount shall constitute a credit fund, subject to an adjustment on the basis of its deposits as provided for other banks now existing at the end of one year. Provided, however, that said three per cent payment shall not be required of new banks formed by the reorganization and consolidation of banks that have previously complied with the terms of this act.

SEC. 3. Any national bank in this State approved by the Auditor of State, may voluntarily
2 avail its depositors of the protection of the depositors' guaranty fund by application to the
3 Auditor of State, in writing and the said application may be sustained upon terms and condi-
4 tions in harmony with the purpose of this act, to be agreed upon by the Auditor of State and
5 the comptroller of the currency of the United States; provided, that in the event national
6 banks should be required by federal enactment to pay assessments to any depositors' guar-
7 anty fund of the Federal Government, and thereby the depositors in national banks in this
8 State should be guaranteed by virtue of federal laws, the national banks having availed them-
9 selves of the benefits of this act may withdraw therefrom and have returned to them ninety
10 per cent of the unused portion of all assessments levied upon and paid by said banks.

SEC. 4. Whenever any bank organized or existing under the laws of this State shall volun-
2 tarily place itself in the hands of the Auditor of State, or, whenever any judgment shall be
3 rendered by a court of competent jurisdiction, adjudging and decreeing that such bank is in-
4 solvent, or whenever its rights or franchises to conduct a banking business under the laws of
5 this State shall have been adjudged to be forfeited, or, whenever the Auditor of State shall
6 become satisfied of the insolvency of any such bank, he may, after due examination of its af-
7 fairs take possession of said bank and its assets, and proceed to wind up its affairs and enforce
8 the personal liability of the stockholders, officers, and directors.

SEC. 5. In the event that the Auditor of State shall take possession of any bank which is
2 subject to the provisions of this act the depositors of said bank shall be paid in full, and when
3 the cash available, or that can be made immediately available of said bank is insufficient to dis-
4 charge the obligations to depositors, the Auditor of State shall draw from the depositors'
5 guaranty fund and from additional assessments, if required, as provided in section one of
6 this act, the amount necessary to make up the deficiency, and the State shall have for the bene-
7 fit of the depositors' guaranty fund, a first lien upon the assets of said bank and all liabil-
8 ities against the stockholders, officers and directors of said bank and against all other per-
9 sons, corporations or firms. Such liabilities may be enforced by the State for the benefit of
10 the depositors' guaranty fund.

SEC. 6. The Auditor of State shall take possession of the books, records, and assets of every
2 description, of such bank, collect debts, dues and claims belonging to it, and upon the order
3 of the District Court, or Judge thereof, may sell or compound all bad or doubtful debts, and on
4 like order may sell all the real or personal property of such bank upon such terms as the
5 court or judge thereof may direct, and may, if necessary, pay the debts of such bank, and
6 then enforce the liabilities of the stockholders, officers and directors; provided, however, that
7 bad or doubtful debts as used in this section shall not include the liabilities of stockholders,
8 officers or directors.

SEC. 7. The Auditor of State shall deliver to each bank that has complied with the provi-

2 sions of this act, a certificate stating that said bank has complied with the laws of this State
3 for the protection of bank depositors, and that safety to its depositors is guaranteed by the
4 depositors' guaranty fund of the State of Iowa. Such certificate shall be conspicuously dis-
5 played in its place of business and said bank may print or engrave upon its stationery and
6 advertising matter, words to the effect that its depositors are protected by the depositors'
7 guaranty fund of the State of Iowa. The printing or engraving of a false statement to the
8 fact last before this named is hereby declared to be a misdemeanor.

SEC. 8. After the Auditor of State shall have taken possession of any bank, which is subject
2 to the provisions of this act, the stockholders thereof may repair its credit, restore or substi-
3 tute its reserves, and otherwise place it in condition so that it is qualified to do a general
4 banking business as before it was taken possession of by the Auditor of State, but such bank
5 shall not be permitted to re-open its business until the Auditor of State, after a careful inves-
6 tigation of its affairs is of the opinion that its stockholders have complied with the laws,
7 that the bank's credit and funds are in all respect repaired, and all advances, if any, made
8 from the depositors' guaranty fund, fully repaid, its reserve restored or sufficiently substi-
9 tuted, and that it should be permitted again to re-open for business; whereupon said Auditor
10 of State is authorized to issue written permission for the re-opening of said bank in the same
11 manner as permission to do business is granted after the incorporation thereof, and there-
12 upon said bank may re-open to do a general banking business.

SEC. 9. The violation of any of the provisions of this act by the officers or directors of any
2 bank organized or existing subject to the laws of this state shall be a sufficient cause to sub-
3 ject the said bank to be closed by the Auditor of State and for the annulment of its charter.

SEC. 10. Any officer of a bank found by the Auditor of State, or so found by any bank
2 examiner, to be dishonest, reckless or incompetent, shall be removed from office by the board
3 of directors of the bank of which he is an officer, on the written order of the Auditor of
4 State.

SEC. 11. The expense of administering the depositors' guaranty fund shall be paid from
2 said fund.

SEC. 12. The Auditor of State may take a certificate of deposit from each bank coming
2 under the provisions of this act, for the amount so levied, which certificate shall draw in-
3 terest at the rate of three per cent per annum and said interest shall be a part of said de-
4 positors' guaranty fund. Provided, if at any time, the expenses of administering the de-
5 positors' guaranty fund should be less than the amount of interest received on the funds so
6 left on deposit in the banks coming under the provisions of this act then the Auditor of State
7 may reduce the rate of interest so as to, as nearly as practicable, meet the expense of admin-
8 istering said fund.

SEC. 13. All funds coming into the hands of the Auditor of State, under the provisions

2 of this act, shall be deposited with the Treasurer of State and be paid out on the order of
3 the Auditor of State.

SEC. 14. When this act takes effect it shall repeal all acts and parts of acts inconsistent
2 with this act.

SEC. 15. This act, being deemed of immediate importance, shall take effect and be in force
2 from and after its publication in the Register and Leader and Des Moines Capital, newspapers
3 published in Des Moines, Iowa.