

Chapman : Chair

DIX

JOHNSON

HSB 130

COMMERCE AND REGULATION

HOUSE FILE

SC/HF 591

BY (PROPOSED COMMITTEE ON

COMMERCE AND REGULATION

BILL BY CHAIRPERSON METCALF)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the deposit of public funds and the conditions
2 which must be met by a savings and loan association or savings
3 bank to be eligible to receive such deposits.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 complaint has been filed pursuant to this subsection, to
2 disclose such additional information relating to community
3 reinvestment as required by the order of the majority of the
4 committee.

5 Sec. 5. Section 12C.15, Code 1999, is amended to read as
6 follows:

7 12C.15 RESTRICTION ON REQUIRING COLLATERAL.

8 A local government shall not require a pledge of collateral
9 for that portion of the local government's deposits in a
10 ~~savings-and-loan-or~~ credit union that is covered by insurance
11 of a federal agency or instrumentality.

12 Sec. 6. Section 12C.16, Code 1999, is amended to read as
13 follows:

14 12C.16 SECURITY FOR DEPOSIT OF PUBLIC FUNDS.

15 1. Before a deposit of public funds is made by a public
16 officer with a ~~savings-and-loan-or~~ credit union in excess of
17 the amount federally insured, the public officer shall obtain
18 security for the deposit by one or more of the following:

19 a. The ~~savings-and-loan-or~~ credit union may give to the
20 public officer a corporate surety bond of a surety corporation
21 approved by the treasury department of the United States and
22 authorized to do business in this state, which bond shall be
23 in an amount equal to the public funds on deposit at any time.
24 The bond shall be conditioned that the deposit shall be paid
25 promptly on the order of the public officer making the deposit
26 and shall be approved by the officer making the deposit.

27 b. The ~~savings-and-loan-or~~ credit union may deposit,
28 maintain, pledge and assign for the benefit of the public
29 officer in the manner provided in this chapter, securities
30 approved by the public officer, the market value of which is
31 not less than one hundred ten percent of the total deposits of
32 public funds placed by that public officer in the ~~savings-and~~
33 ~~loan-or~~ credit union. The securities shall consist of any of
34 the following:

35 (1) Direct obligations of, or obligations that are insured

1 or fully guaranteed as to principal and interest by, the
2 United States of America or an agency or instrumentality of
3 the United States of America.

4 (2) Public bonds or obligations of this state or a
5 political subdivision of this state.

6 (3) Public bonds or obligations of another state or a
7 political subdivision of another state whose bonds are rated
8 within the two highest classifications of prime as established
9 by at least one of the standard rating services approved by
10 the superintendent of banking pursuant to chapter 17A.

11 (4) To the extent of the guarantee, loans, obligations, or
12 nontransferable letters of credit upon which the payment of
13 principal and interest is fully secured or guaranteed by the
14 United States of America or an agency or instrumentality of
15 the United States of America or the U.S. central credit union,
16 and the rating of the U.S. central credit union remains within
17 the two highest classifications of prime established by at
18 least one of the standard rating services approved by the
19 superintendent of banking by rule pursuant to chapter 17A.
20 The treasurer of state shall adopt rules pursuant to chapter
21 17A to implement this section.

22 (5) First lien mortgages which are valued according to
23 practices acceptable to the treasurer of state.

24 (6) Investments in an open-end management investment
25 company registered with the federal securities and exchange
26 commission under the federal Investment Company Act of 1940,
27 15 U.S.C. § 80(a), which is operated in accordance with 17
28 C.F.R. § 270.2a-7.

29 Direct obligations of, or obligations that are insured or
30 fully guaranteed as to principal and interest by, the United
31 States of America, which may be used to secure the deposit of
32 public funds under subparagraph (1), include investments in an
33 investment company or investment trust registered under the
34 federal Investment Company Act of 1940, 15 U.S.C. § 80a, the
35 portfolio of which is limited to the United States government

1 obligations described in subparagraph (1) and to repurchase
2 agreements fully collateralized by the United States
3 government obligations described in subparagraph (1), if the
4 investment company or investment trust takes delivery of the
5 collateral either directly or through an authorized custodian.

6 2. If public funds are secured by both the assets of a
7 ~~savings-and-loan-or~~ credit union and a bond of a surety
8 company, the assets and bond shall be held as security for a
9 rateable proportion of the deposit on the basis of the market
10 value of the assets and of the total amount of the surety
11 bonds.

12 Sec. 7. Section 12C.17, Code 1999, is amended to read as
13 follows:

14 12C.17 DEPOSIT OF SECURITIES.

15 1. A ~~savings-and-loan-or~~ credit union which receives
16 public funds shall pledge securities owned by it as required
17 by this chapter in one of the following methods:

18 a. The securities shall be deposited with the county,
19 city, or other public officers at the option of the officers.

20 b. The securities shall be deposited pursuant to a
21 bailment agreement with a financial institution having
22 facilities for the safekeeping of securities and doing
23 business in the state. A financial institution which receives
24 securities for safekeeping is liable to the public officer to
25 whom the securities are pledged for any loss suffered by the
26 public officer if the financial institution relinquishes
27 custody of the securities contrary to the provisions of this
28 chapter or the instrument governing the pledge of the
29 securities.

30 c. The securities shall be deposited with the federal
31 reserve bank of Chicago, Illinois, the federal home loan bank
32 of Des Moines, Iowa, or the U.S. central credit union
33 pursuant to a bailment agreement or a pledge custody
34 agreement.

35 d. The securities may be deposited by any combination of

1 methods specified in paragraphs "a", "b", and "c".

2 2. A deposit of securities shall not be made in a facility
3 owned or controlled directly or indirectly by the financial
4 institution which deposits the securities.

5 3. All deposits of securities, other than deposits of
6 securities with the appropriate public officer, shall have a
7 joint custody receipt taken for the securities with one copy
8 delivered to the public officer and one copy delivered to the
9 ~~savings-and-loan-or~~ credit union. A ~~savings-and-loan-or~~
10 credit union pledging securities with a public officer may
11 cause the securities to be examined in the officer's office to
12 show the securities are placed with the officer as collateral
13 security and are not transferable except upon the conditions
14 provided in this chapter.

15 4. Upon written request from the appropriate public
16 officer but not less than quarterly, a ~~savings-and-loan-or~~
17 credit union shall report the par value and the market value
18 of any pledged collateral and the total deposits of public
19 funds of that officer in the ~~savings-and-loan-or~~ credit union.

20 Sec. 8. Section 12C.18, Code 1999, is amended to read as
21 follows:

22 12C.18 CONDITION OF SECURITY.

23 The condition of the surety bond or the deposit of
24 securities, instruments, or a joint custody receipt, must be
25 that the ~~savings-and-loan-or~~ credit union will promptly pay to
26 the parties entitled public funds, including any interest on
27 the funds, in its custody upon lawful demand and, when
28 required by law, pay the funds to the public officer who made
29 the deposit.

30 Sec. 9. Section 12C.19, subsections 3 and 4, Code 1999,
31 are amended to read as follows:

32 3. In the event of substitution or exchange of securities,
33 the holder or custodian of the securities shall, on the same
34 day, forward by certified mail, return receipt requested, to
35 the public officer and the ~~savings-and-loan-or~~ credit union, a

1 receipt specifically describing and identifying both the
2 substituted securities and those released and returned to the
3 ~~savings-and-loan-or~~ credit union.

4 4. The public officer which deposits public funds with a
5 ~~savings-and-loan-or~~ credit union shall require, if the market
6 value of the securities deposited with or for the benefit of
7 the officer falls below one hundred ten percent of the deposit
8 liability to the public officer, the deposit of additional
9 security to bring the total market value of the security to
10 one hundred ten percent of the amount of public funds held by
11 the ~~savings-and-loan-or~~ credit union.

12 Sec. 10. Section 12C.23, subsection 3, paragraph d,
13 subparagraph (3), Code 1999, is amended by striking the
14 subparagraph.

15 Sec. 11. Section 12C.25, subsection 3, Code 1999, is
16 amended by striking the subsection.

17 Sec. 12. TRANSITION PROVISION. All funds in the state
18 sinking fund for public deposits in savings and loan
19 associations and savings banks on the effective date of this
20 Act shall be transferred to the state sinking fund for public
21 deposits in banks, and the state sinking fund for public
22 deposits in savings and loan associations and savings banks
23 shall be closed.

24 EXPLANATION

25 This bill amends Code chapter 12C relating to the deposit
26 of public funds and the conditions which must be met by a
27 financial institution to be eligible to receive such deposits.
28 The bill provides that a savings and loan association, a
29 savings bank, or any branch of a savings and loan association
30 or savings bank, be subject to substantially the same
31 requirements as a bank.

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REPRINTED

MAR 9 1999
Place On Calendar

HOUSE FILE 571
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 130)

(COMPANION TO LSB 2158SV)

Passed House, Date ^(P.740) 3/18/99 Passed Senate, Date ^(P.763) 3/24/99
Vote: Ayes 95 Nays 0 Vote: Ayes 49 Nays 0
Approved May 11, 1999

A BILL FOR

1 An Act relating to the deposit of public funds and the conditions
2 which must be met by a savings and loan association or savings
3 bank to be eligible to receive such deposits.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 571

1 Section 1. Section 12C.1, subsection 2, paragraph c, Code
2 1999, is amended to read as follows:

3 c. "Bank" means a corporation engaged in the business of
4 banking authorized by law to receive deposits and whose
5 deposits are insured by the bank insurance fund of the federal
6 deposit insurance corporation and includes any office of a
7 bank. "Bank" also means a savings and loan.

8 Sec. 2. Section 12C.1, subsection 2, paragraph f, Code
9 1999, is amended to read as follows:

10 f. "Financial institution" means a ~~bank~~~~-savings-and-loan~~
11 or a credit union.

12 Sec. 3. Section 12C.1, subsection 3, paragraph a, Code
13 1999, is amended to read as follows:

14 a. If a depository is ~~a-savings-and-loan-or~~ a credit
15 union, then public deposits in the ~~savings-and-loan-or~~ credit
16 union shall be secured pursuant to sections 12C.16 through
17 12C.19 and sections 12C.23 and 12C.24.

18 Sec. 4. Section 12C.6A, subsection 5, paragraphs a, b, and
19 c, Code 1999, are amended to read as follows:

20 a. A person who believes a ~~bank~~~~-savings-and-loan~~
21 ~~association~~~~-or-savings-bank~~ has failed to meet its community
22 reinvestment responsibility may file a complaint with the
23 committee detailing the basis for that belief.

24 b. If any committee member, in the member's discretion,
25 finds that the complaint has merit, the member may order the
26 ~~bank~~~~-savings-and-loan-association~~~~-or-savings-bank~~ alleged to
27 have failed to meet its community reinvestment responsibility
28 to attend and participate in a meeting with the complainant.
29 The committee member may specify who, at minimum, shall
30 represent the financial institution at the meeting. At the
31 meeting, or at any other time, the ~~financial-institution~~ bank
32 may, but is not required to, enter into an agreement with a
33 complainant to correct alleged failings.

34 c. A majority of the committee may order a ~~bank~~~~-savings~~
35 ~~and-loan-association~~~~-or-savings-bank~~, against which a

1 complaint has been filed pursuant to this subsection, to
2 disclose such additional information relating to community
3 reinvestment as required by the order of the majority of the
4 committee.

5 Sec. 5. Section 12C.15, Code 1999, is amended to read as
6 follows:

7 12C.15 RESTRICTION ON REQUIRING COLLATERAL.

8 A local government shall not require a pledge of collateral
9 for that portion of the local government's deposits in a
10 ~~savings-and-loan-or~~ credit union that is covered by insurance
11 of a federal agency or instrumentality.

12 Sec. 6. Section 12C.16, Code 1999, is amended to read as
13 follows:

14 12C.16 SECURITY FOR DEPOSIT OF PUBLIC FUNDS.

15 1. Before a deposit of public funds is made by a public
16 officer with a ~~savings-and-loan-or~~ credit union in excess of
17 the amount federally insured, the public officer shall obtain
18 security for the deposit by one or more of the following:

19 a. The ~~savings-and-loan-or~~ credit union may give to the
20 public officer a corporate surety bond of a surety corporation
21 approved by the treasury department of the United States and
22 authorized to do business in this state, which bond shall be
23 in an amount equal to the public funds on deposit at any time.
24 The bond shall be conditioned that the deposit shall be paid
25 promptly on the order of the public officer making the deposit
26 and shall be approved by the officer making the deposit.

27 b. The ~~savings-and-loan-or~~ credit union may deposit,
28 maintain, pledge and assign for the benefit of the public
29 officer in the manner provided in this chapter, securities
30 approved by the public officer, the market value of which is
31 not less than one hundred ten percent of the total deposits of
32 public funds placed by that public officer in the ~~savings-and~~
33 ~~loan-or~~ credit union. The securities shall consist of any of
34 the following:

35 (1) Direct obligations of, or obligations that are insured

1 or fully guaranteed as to principal and interest by, the
2 United States of America or an agency or instrumentality of
3 the United States of America.

4 ~~(2) Public bonds or obligations of this state or a
5 political subdivision of this state.~~

6 ~~(3) Public bonds or obligations of another state or a
7 political subdivision of another state whose bonds are rated
8 within the two highest classifications of prime as established
9 by at least one of the standard rating services approved by
10 the superintendent of banking pursuant to chapter 17A.~~

11 (4) To the extent of the guarantee, loans, obligations, or
12 nontransferable letters of credit upon which the payment of
13 principal and interest is fully secured or guaranteed by the
14 United States of America or an agency or instrumentality of
15 the United States of America or the U.S. central credit union,
16 and the rating of the U.S. central credit union remains within
17 the two highest classifications of prime established by at
18 least one of the standard rating services approved by the
19 superintendent of banking by rule pursuant to chapter 17A.
20 The treasurer of state shall adopt rules pursuant to chapter
21 17A to implement this section.

22 ~~(5) First lien mortgages which are valued according to
23 practices acceptable to the treasurer of state.~~

24 ~~(6) Investments in an open end management investment
25 company registered with the federal securities and exchange
26 commission under the federal Investment Company Act of 1940,
27 15-U.S.C. § 80(a), which is operated in accordance with 17
28 C.F.R. § 270.2a-7.~~

29 ~~Direct obligations of, or obligations that are insured or
30 fully guaranteed as to principal and interest by, the United
31 States of America, which may be used to secure the deposit of
32 public funds under subparagraph (1), include investments in an
33 investment company or investment trust registered under the
34 federal Investment Company Act of 1940, 15-U.S.C. § 80a, the
35 portfolio of which is limited to the United States government~~

1 obligations-described-in-subparagraph-(1)-and-to-repurchase
2 agreements-fully-collateralized-by-the-United-States
3 government-obligations-described-in-subparagraph-(1),-if-the
4 investment-company-or-investment-trust-takes-delivery-of-the
5 collateral-either-directly-or-through-an-authorized-custodian-

6 2. If public funds are secured by both the assets of a
7 savings-and-loan-or credit union and a bond of a surety
8 company, the assets and bond shall be held as security for a
9 rateable proportion of the deposit on the basis of the market
10 value of the assets and of the total amount of the surety
11 bonds.

12 Sec. 7. Section 12C.17, Code 1999, is amended to read as
13 follows:

14 12C.17 DEPOSIT OF SECURITIES.

15 1. A savings-and-loan-or credit union which receives
16 public funds shall pledge securities owned by it as required
17 by this chapter in one of the following methods:

18 a. The securities shall be deposited with the county,
19 city, or other public officers at the option of the officers.

20 b. The securities shall be deposited pursuant to a
21 bailment agreement with a financial institution having
22 facilities for the safekeeping of securities and doing
23 business in the state. A financial institution which receives
24 securities for safekeeping is liable to the public officer to
25 whom the securities are pledged for any loss suffered by the
26 public officer if the financial institution relinquishes
27 custody of the securities contrary to the provisions of this
28 chapter or the instrument governing the pledge of the
29 securities.

30 c. The securities shall be deposited with the-federal
31 reserve-bank-of-Chicago,-Illinois, the federal home loan bank
32 of Des Moines, Iowa, or the U.S. central credit union
33 pursuant to a bailment agreement or a pledge custody
34 agreement.

35 d. The securities may be deposited by any combination of

1 methods specified in paragraphs "a", "b", and "c".

2 2. A deposit of securities shall not be made in a facility
3 owned or controlled directly or indirectly by the financial
4 institution which deposits the securities.

5 3. All deposits of securities, other than deposits of
6 securities with the appropriate public officer, shall have a
7 joint custody receipt taken for the securities with one copy
8 delivered to the public officer and one copy delivered to the
9 ~~savings-and-loan-or~~ credit union. A ~~savings-and-loan-or~~
10 credit union pledging securities with a public officer may
11 cause the securities to be examined in the officer's office to
12 show the securities are placed with the officer as collateral
13 security and are not transferable except upon the conditions
14 provided in this chapter.

15 4. Upon written request from the appropriate public
16 officer but not less than ~~quarterly,-a-savings-and-loan-or~~
17 ~~credit-union~~ monthly, the federal home loan bank of Des
18 Moines, Iowa, shall report the par value and the market value
19 of any pledged collateral ~~and-the-total-deposits-of-public~~
20 ~~funds-of-that-officer-in-the-savings-and-loan-or~~ by a credit
21 union to the public entity represented by the requesting
22 public officer.

23 Sec. 8. Section 12C.18, Code 1999, is amended to read as
24 follows:

25 12C.18 CONDITION OF SECURITY.

26 The condition of the surety bond or the deposit of
27 securities, instruments, or a joint custody receipt, must be
28 that the ~~savings-and-loan-or~~ credit union will promptly pay to
29 the parties entitled public funds, including any interest on
30 the funds, in its custody upon lawful demand and, when
31 required by law, pay the funds to the public officer who made
32 the deposit.

33 Sec. 9. Section 12C.19, subsections 3 and 4, Code 1999,
34 are amended to read as follows:

35 3. In the event of substitution, addition, or exchange of

1 securities, the holder or custodian of the securities shall,
2 on the same day, forward by ~~certified-mail, return-receipt~~
3 ~~requested,~~ regular mail to the public officer and the ~~savings~~
4 ~~and-loan-or~~ credit union, a receipt specifically describing
5 and identifying both the substituted or additional securities
6 ~~and-those-released-and-retained-to-the-savings-and-loan-or~~
7 ~~credit-union.~~

8 4. The public officer which deposits public funds with a
9 ~~savings-and-loan-or~~ credit union shall require, if the market
10 value of the securities deposited with or for the benefit of
11 the officer falls below one hundred ten percent of the deposit
12 liability to the public officer, the deposit of additional
13 security to bring the total market value of the security to
14 one hundred ten percent of the amount of public funds held by
15 the ~~savings-and-loan-or~~ credit union.

16 Sec. 10. Section 12C.23, Code 1999, is amended to read as
17 follows:

18 12C.23 PAYMENT OF LOSSES IN A CREDIT UNION.

19 1. The pledging of securities by a depository credit union
20 pursuant to this chapter constitutes consent by the depository
21 credit union to the disposition of the securities in
22 accordance with this section.

23 The acceptance of public funds by a depository credit union
24 pursuant to this chapter constitutes consent by the depository
25 credit union to assessments by the treasurer of state in
26 accordance with this chapter.

27 2. The depository credit union and the security given for
28 the public funds in its hands are liable for payment if the
29 depository credit union fails to pay a check, draft, or
30 warrant drawn by the public officer or to account for a check,
31 draft, warrant, order, or certificates of deposit, or any
32 public funds entrusted to it if, in failing to pay, the
33 depository credit union acts contrary to the terms of an
34 agreement between the depository credit union and the public
35 body treasurer. The depository credit union and the security

1 given for the public funds in its hands are also liable for
2 payment if the depository credit union fails to pay an
3 assessment by the treasurer of state when the assessment is
4 due.

5 3. If a depository credit union is closed by its primary
6 regulatory officials, the public body with deposits in the
7 ~~depository shall notify the treasurer of state of the amount~~
8 ~~of any claim within thirty days of the closing credit union~~
9 may sell the collateral to pay for any loss of principal. The
10 ~~treasurer of state shall implement the following procedures:~~

11 a. In cooperation with the responsible regulatory
12 officials for the depository credit union, the public body
13 treasurer shall validate the amount of public funds on deposit
14 at the defaulting depository credit union and the amount of
15 deposit insurance applicable to the deposits.

16 b. The loss to public depositors shall be satisfied, first
17 through any applicable deposit insurance and then through the
18 sale of securities pledged by the defaulting depository credit
19 union, and then the assets of the defaulting depository credit
20 union. The priority of claims are those established pursuant
21 to ~~section 524.1312, subsection 2,~~ section 533.22, subsection
22 1, paragraph "b"~~7~~-~~or-section-534.517~~. To the extent permitted
23 by federal law, in the distribution of an insolvent federally
24 chartered depository's credit union's assets, the order of
25 payment of liabilities if its assets are insufficient to pay
26 in full all its liabilities for which claims are made shall be
27 in the same order as for the equivalent type of state
28 chartered depository credit union as provided in section
29 ~~524.1312, subsection 2,~~ section 533.22, subsection 1,
30 paragraph "b"~~7~~-~~or-section-534.517~~.

31 c. The claim of a public depositor for purposes of this
32 section shall be the amount of the depositor's deposits plus
33 interest to the date the funds are distributed to the public
34 depositor at the rate the depository-institution credit union
35 agreed to pay on the funds reduced by the portion of the funds

1 which is insured by federal deposit insurance.

2 d. If the loss to public funds is not covered by insurance
3 and the proceeds of the failed depository's credit union's
4 assets which are liquidated within thirty days of the closing
5 of the depository credit union and pledged collateral, the
6 treasurer shall provide coverage of the remaining loss as
7 follows:

8 ~~(i) -- If the loss was incurred in a bank, then any further~~
9 ~~payments to cover the loss will come from the state sinking~~
10 ~~fund for public deposits in banks. -- If the balance in that~~
11 ~~sinking fund is inadequate to pay the entire loss, then the~~
12 ~~treasurer shall obtain the additional amount needed by making~~
13 ~~an assessment against other banks whose public funds deposits~~
14 ~~exceed deposit insurance coverage. -- A bank's assessment shall~~
15 ~~be determined by multiplying the total amount of the remaining~~
16 ~~loss to all public depositors by a percentage that represents~~
17 ~~that bank's proportional share of the average of uninsured~~
18 ~~public funds deposits held by all banks as of the reporting~~
19 ~~date under section 12C.21 immediately preceding the date the~~
20 ~~depository was closed. -- Each bank shall pay its assessment to~~
21 ~~the treasurer within three business days after it receives~~
22 ~~notice of assessment. -- If a bank fails to pay its assessment~~
23 ~~when due, the treasurer shall satisfy the assessment by~~
24 ~~selling securities pledged by that bank. -- If the securities~~
25 ~~pledged by that bank are inadequate to pay the assessment, the~~
26 ~~treasurer of state shall make additional assessments as may be~~
27 ~~necessary against other banks which hold uninsured public~~
28 ~~funds to satisfy any unpaid assessment. -- Any additional~~
29 ~~assessments shall be determined, collected, and satisfied in~~
30 ~~the same manner as the first assessment. -- If a bank fails to~~
31 ~~pay its assessment when due, the treasurer of state shall~~
32 ~~initiate a lawsuit to collect the assessment. -- If a bank is~~
33 ~~found to have failed to pay the assessment as required by this~~
34 ~~subparagraph, the court shall order it to pay the assessment,~~
35 ~~court costs, reasonable attorney's fees based on the amount of~~

1 time-the-attorney-general's-office-spent-preparing-and
2 bringing-the-action,-and-reasonable-expenses-incurred-by-the
3 treasurer-of-state.--Idle-balances-in-the-fund-shall-be
4 invested-by-the-treasurer-with-earnings-credited-to-the-fund.
5 Fees-paid-by-banks-for-administration-of-this-chapter-shall-be
6 credited-to-the-fund-and-the-treasurer-may-deduct-actual-costs
7 of-administration-from-the-fund.

8 (2)--If-the-loss-was-incurred-in-a-credit-union,-then-any
9 further-payments-to-cover-the-loss-will-come from the state
10 sinking fund for public deposits in credit unions. If the
11 funds are inadequate to cover the entire loss, then the
12 treasurer shall make an assessment against other credit unions
13 who hold public funds. The assessment shall be determined by
14 multiplying the total amount of the remaining loss to public
15 depositors by a percentage that represents the average of
16 public funds deposits held by all credit unions during the
17 preceding twelve-month period ending on the last day of the
18 month immediately preceding the month the depository credit
19 union was closed. Each credit union shall pay its assessment
20 to the treasurer within three business days after it receives
21 notice of assessment. If a credit union fails to pay its
22 assessment when due, the treasurer of state shall initiate a
23 lawsuit to collect the assessment. If a credit union is found
24 to have failed to pay the assessment as required by this
25 subparagraph, the court shall order it to pay the assessment,
26 court costs, reasonable attorney's fees based upon the amount
27 of time the attorney general's office spent preparing and
28 bringing the action, and reasonable expenses incurred by the
29 treasurer of state's office. Idle balances in the fund are to
30 be invested by the treasurer with earnings credited to the
31 fund. Fees paid by credit unions for administration of this
32 chapter will be credited to the fund and the treasurer may
33 deduct actual costs of administration from the fund.

34 (3)--If-the-loss-was-incurred-in-a-savings-and-loan-or-a
35 savings-bank,-then-any-further-payments-to-cover-the-loss-will

1 come from the state sinking fund for public deposits in
2 savings and loan associations and savings banks;--if the funds
3 are inadequate to cover the entire loss, then the treasurer
4 shall make an assessment against other savings and loans and
5 savings banks who hold public funds;--The assessment shall be
6 determined by multiplying the total amount of the remaining
7 loss to public depositors by a percentage that represents the
8 average of public funds deposits held by all savings and loans
9 and savings banks during the preceding twelve month period
10 ending on the last day of the month immediately preceding the
11 month the depository was closed;--Each savings and loan and
12 savings bank shall pay its assessment to the treasurer within
13 three business days after it receives notice of assessment;
14 if a savings and loan or savings bank fails to pay its
15 assessment when due, the treasurer shall initiate a lawsuit to
16 collect the assessment;--if a savings and loan association or
17 a savings bank is found to have failed to pay the assessment
18 as required by this subparagraph, the court shall order it to
19 pay the assessment, court costs of the action, reasonable
20 attorney's fees based upon the amount of time the attorney
21 general's office spent preparing and bringing the action, and
22 reasonable expenses incurred by the treasurer of state's
23 office;

24 e. Any amount realized from the sale of collateral
25 pursuant to paragraph "d", subparagraphs (1) and (2) in excess
26 of the amount of a depository's credit union's assessment,
27 shall continue to be held by the treasurer, in the same
28 interest bearing investments available for public funds, as
29 collateral until that depository credit union provides
30 substitute collateral or is otherwise entitled to its release.

31 f.--Following collection of the assessments, the state
32 treasurer shall distribute funds to the public depositors of
33 the failed depository according to their validated claims;--if
34 the assets available are less than the total deposits, the
35 treasurer shall prorate the claims;--A public depositor

1 receiving-payment-under-this-section-shall-assign-to-the
2 treasurer-any-interest-the-public-depositor-may-have-in-funds
3 that-subsequently-become-available-to-depositors-of-the
4 defaulting-depository-

5 Sec. 11. NEW SECTION. 12C.23A PAYMENT OF LOSSES IN A
6 BANK.

7 1. The acceptance of public funds by a bank pursuant to
8 this chapter constitutes consent by the bank to assessments by
9 the treasurer of state in accordance with this chapter.

10 2. The bank is liable for payment if the bank fails to pay
11 a check, draft, or warrant drawn by the public officer or to
12 account for a check, draft, warrant, order, or certificates of
13 deposit, or any public funds entrusted to it if, in failing to
14 pay, the bank acts contrary to the terms of an agreement
15 between the bank and the public body treasurer. The bank is
16 also liable for payment if the bank fails to pay an assessment
17 by the treasurer of state when the assessment is due.

18 3. If a bank is closed by its primary regulatory
19 officials, the public body with deposits in the bank shall
20 notify the treasurer of state of the amount of any claim
21 within thirty days of the closing. The treasurer of state
22 shall implement the following procedures:

23 a. In cooperation with the responsible regulatory
24 officials for the bank, the treasurer shall validate the
25 amount of public funds on deposit at the defaulting bank and
26 the amount of deposit insurance applicable to the deposits.

27 b. The loss to public depositors shall be satisfied, first
28 through any applicable deposit insurance and then through the
29 sale of securities pledged by the defaulting bank. The
30 priority of claims are those established pursuant to section
31 524.1312, subsection 2, section 533.22, subsection 1,
32 paragraph "b", or section 534.517. To the extent permitted by
33 federal law, in the distribution of an insolvent federally
34 chartered bank's assets, the order of payment of liabilities
35 if its assets are insufficient to pay in full all its

1 liabilities for which claims are made shall be in the same
2 order as for a state-chartered bank as provided in section
3 524.1312, subsection 2.

4 c. The claim of a public depositor for purposes of this
5 section shall be the amount of the depositor's deposits plus
6 interest to the date the funds are distributed to the public
7 depositor at the rate the bank agreed to pay on the funds
8 reduced by the portion of the funds which is insured by
9 federal deposit insurance.

10 d. If the loss to public funds is not covered by insurance
11 and the proceeds of the failed bank's assets which are
12 liquidated within thirty days of the closing of the bank, are
13 not sufficient to cover the loss, then any further payments to
14 cover the loss will come from the state sinking fund for
15 public deposits in banks. If the balance in that sinking fund
16 is inadequate to pay the entire loss, then the treasurer shall
17 obtain the additional amount needed by making an assessment
18 against other banks whose public funds deposits exceed deposit
19 insurance coverage. A bank's assessment shall be determined
20 by multiplying the total amount of the remaining loss to all
21 public depositors by a percentage that represents that bank's
22 proportional share of the average of uninsured public funds
23 deposits held by all banks as of the reporting date under
24 section 12C.21 immediately preceding the date the bank was
25 closed. Each bank shall pay its assessment to the treasurer
26 within three business days after it receives notice of
27 assessment. If a bank fails to pay its assessment when due,
28 the treasurer of state shall initiate a lawsuit to collect the
29 assessment. If a bank is found to have failed to pay the
30 assessment as required by this subparagraph, the court shall
31 order it to pay the assessment, court costs, reasonable
32 attorney fees based on the amount of time the attorney
33 general's office spent preparing and bringing the action, and
34 reasonable expenses incurred by the treasurer of state. Idle
35 balances in the fund shall be invested by the treasurer with

1 earnings credited to the fund. Fees paid by banks for
2 administration of this chapter shall be credited to the fund
3 and the treasurer may deduct actual costs of administration
4 from the fund.

5 e. Following collection of the assessments, the state
6 treasurer shall distribute funds to the public depositors of
7 the failed bank according to their validated claims. If the
8 assets available are less than the total deposits, the
9 treasurer shall prorate the claims. A public depositor
10 receiving payment under this section shall assign to the
11 treasurer any interest the public depositor may have in funds
12 that subsequently become available to depositors of the
13 defaulting bank.

14 Sec. 12. Section 12C.25, subsection 3, Code 1999, is
15 amended by striking the subsection.

16

EXPLANATION

17 This bill amends Code chapter 12C relating to the deposit
18 of public funds and the conditions which must be met by a
19 financial institution to be eligible to receive such deposits.
20 The bill provides that a savings and loan association, a
21 savings bank, or any branch of a savings and loan association
22 or savings bank, be subject to substantially the same
23 requirements as a bank.

24 The bill strikes certain options with respect to securities
25 which may be deposited, maintained, pledged, or assigned for
26 the security of a public deposit including public bonds or
27 obligations of this state or a political subdivision of this
28 state; public bonds or obligations of another state or a
29 political subdivision of another state whose bonds are rated
30 within the two highest classifications of prime; first lien
31 mortgages which are valued according to practices acceptable
32 to the treasurer of state; and investments in an open-end
33 management investment company registered with the federal
34 securities and exchange commission.

35

HOUSE FILE 571

H-1109

1 Amend House File 571 as follows:

2 1. Page 1, line 7, by inserting after the word
3 "loan" the following: "or savings association".

4 2. Page 1, by inserting after line 17 the
5 following:

6 "Sec. ____ . Section 12C.1, subsection 3, paragraph
7 b, Code 1999, is amended to read as follows:

8 b. If a depository is a bank, then public deposits
9 in the bank shall be secured pursuant to sections
10 ~~12C.21, 12C.23,~~ 12C.23, and 12C.24."

11 3. Page 3, by striking lines 4 through 11 and
12 inserting the following:

13 "(2) Public bonds or obligations of this state or
14 a political subdivision of this state.

15 (3) Public bonds or obligations of another state
16 or a political subdivision of another state whose
17 bonds are rated within the two highest classifications
18 of prime as established by at least one of the
19 standard rating services approved by the
20 superintendent of banking pursuant to chapter 17A.

21 (4) To the extent of the guarantee, loans,
22 obligations, or".

23 4. By striking page 3, line 22, through page 4,
24 line 5, and inserting the following:

25 "(5) First lien mortgages which are valued
26 according to practices acceptable to the treasurer of
27 state.

28 (6) Investments in an open-end management
29 investment company registered with the federal
30 securities and exchange commission under the federal
31 Investment Company Act of 1940, 15 U.S.C. § 80(a),
32 which is operated in accordance with 17 C.F.R. §
33 270.2a-7.

34 Direct obligations of, or obligations that are
35 insured or fully guaranteed as to principal and
36 interest by, the United States of America, which may
37 be used to secure the deposit of public funds under
38 subparagraph (1), include investments in an investment
39 company or investment trust registered under the
40 federal Investment Company Act of 1940, 15 U.S.C. §
41 80a, the portfolio of which is limited to the United
42 States government obligations described in
43 subparagraph (1) and to repurchase agreements fully
44 collateralized by the United States government
45 obligations described in subparagraph (1), if the
46 investment company or investment trust takes delivery
47 of the collateral either directly or through an
48 authorized custodian."

49 5. Page 4, by striking lines 30 and 31, and
50 inserting the following:

H-1109

-1-

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Page 2

- 1 "c. The securities shall be deposited with the
2 federal reserve bank of ~~Chicago, Illinois~~, the federal
3 home loan bank".
- 4 6. Page 5, by striking line 18 and inserting the
5 following: "Moines, Iowa, shall report a description,
6 the par value, and the market value".
- 7 7. Page 5, by striking lines 21 and 22 and
8 inserting the following: "union."
- 9 8. Page 7, line 9, by inserting after the word
10 "principal" the following: "and accrued interest".
- 11 9. Page 7, lines 12 and 13, by striking the words
12 "public body treasurer" and inserting the following:
13 "treasurer public body".
- 14 10. Page 11, by striking lines 27 through 29 and
15 inserting the following:
16 "b. The recovery of any loss to public depositors
17 shall begin with applicable deposit insurance. The".
- 18 11. Page 12, by striking lines 23 through 25 and
19 inserting the following: "deposits held by all banks.
20 Each bank shall pay its assessment to the treasurer".
- 21 12. Page 13, by inserting after line 15 the
22 following:
23 "Sec. _____. Section 12C.21, Code 1999, is repealed.
24 Sec. _____. EFFECTIVE DATE. This Act, being deemed
25 of immediate importance, takes effect upon enactment."
26 13. Title page, line 3, by inserting after the
27 word "deposits" the following: ", and providing an
28 effective date".
- 29 14. By renumbering as necessary.

By CHAPMAN of Linn

H-1109 FILED MARCH 17, 1999

adopted
3-18-99
(P. 740)

Substitutes for SF 519

3/24/99 (P. 763)

HOUSE FILE 571
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 130)
(COMPANION TO LSB 2158SV)

(As Amended and Passed by the House March 18, 1999)

re Passed House, ^(P. 1019) Date 4/1/99 Passed Senate, ^(P. 763) Date 3/24/99
Vote: Ayes 96 Nays 0 Vote: Ayes 49 Nays 0
Approved May 11, 1999

A BILL FOR

1 An Act relating to the deposit of public funds and the conditions
2 which must be met by a savings and loan association or savings
3 bank to be eligible to receive such deposits, and providing
4 an effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 571

S-3106

1 Amend House File 571, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 5, line 23, by inserting after the word
4 "Iowa," the following: "or the U.S. central credit
5 union,".

*adopted 3/24/99
(P. 763)*

By JEFF LAMBERTI
PATRICK J. DELUHERY

S-3106 FILED MARCH 18, 1999

SENATE AMENDMENT TO HOUSE FILE 571

H-1206

1 Amend House File 571, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 5, line 23, by inserting after the word
4 "Iowa," the following: "or the U.S. central credit
5 union,".

RECEIVED FROM THE SENATE

H-1206 FILED MARCH 24, 1999

House Concurred 4/1/99 (P. 1019)

1 Section 1. Section 12C.1, subsection 2, paragraph c, Code
2 1999, is amended to read as follows:

3 c. "Bank" means a corporation engaged in the business of
4 banking authorized by law to receive deposits and whose
5 deposits are insured by the bank insurance fund of the federal
6 deposit insurance corporation and includes any office of a
7 bank. "Bank" also means a savings and loan or savings
8 association.

9 Sec. 2. Section 12C.1, subsection 2, paragraph f, Code
10 1999, is amended to read as follows:

11 f. "Financial institution" means a ~~bank, savings and loan,~~
12 or a credit union.

13 Sec. 3. Section 12C.1, subsection 3, paragraph a, Code
14 1999, is amended to read as follows:

15 a. If a depository is ~~a savings and loan or~~ a credit
16 union, then public deposits in the ~~savings and loan or~~ credit
17 union shall be secured pursuant to sections 12C.16 through
18 12C.19 and sections 12C.23 and 12C.24.

19 Sec. 4. Section 12C.1, subsection 3, paragraph b, Code
20 1999, is amended to read as follows:

21 b. If a depository is a bank, then public deposits in the
22 bank shall be secured pursuant to sections ~~12C.21,~~ 12C.23, and
23 12C.24.

24 Sec. 5. Section 12C.6A, subsection 5, paragraphs a, b, and
25 c, Code 1999, are amended to read as follows:

26 a. A person who believes a ~~bank, savings and loan~~
27 ~~association or savings bank~~ has failed to meet its community
28 reinvestment responsibility may file a complaint with the
29 committee detailing the basis for that belief.

30 b. If any committee member, in the member's discretion,
31 finds that the complaint has merit, the member may order the
32 ~~bank, savings and loan association, or savings bank~~ alleged to
33 have failed to meet its community reinvestment responsibility
34 to attend and participate in a meeting with the complainant.
35 The committee member may specify who, at minimum, shall

1 represent the financial institution at the meeting. At the
2 meeting, or at any other time, the ~~financial-institution~~ bank
3 may, but is not required to, enter into an agreement with a
4 complainant to correct alleged failings.

5 c. A majority of the committee may order a ~~bank-savings~~
6 ~~and-loan-association, or-savings-bank,~~ against which a
7 complaint has been filed pursuant to this subsection, to
8 disclose such additional information relating to community
9 reinvestment as required by the order of the majority of the
10 committee.

11 Sec. 6. Section 12C.15, Code 1999, is amended to read as
12 follows:

13 12C.15 RESTRICTION ON REQUIRING COLLATERAL.

14 A local government shall not require a pledge of collateral
15 for that portion of the local government's deposits in a
16 ~~savings-and-loan-or~~ credit union that is covered by insurance
17 of a federal agency or instrumentality.

18 Sec. 7. Section 12C.16, Code 1999, is amended to read as
19 follows:

20 12C.16 SECURITY FOR DEPOSIT OF PUBLIC FUNDS.

21 1. Before a deposit of public funds is made by a public
22 officer with a ~~savings-and-loan-or~~ credit union in excess of
23 the amount federally insured, the public officer shall obtain
24 security for the deposit by one or more of the following:

25 a. The ~~savings-and-loan-or~~ credit union may give to the
26 public officer a corporate surety bond of a surety corporation
27 approved by the treasury department of the United States and
28 authorized to do business in this state, which bond shall be
29 in an amount equal to the public funds on deposit at any time.
30 The bond shall be conditioned that the deposit shall be paid
31 promptly on the order of the public officer making the deposit
32 and shall be approved by the officer making the deposit.

33 b. The ~~savings-and-loan-or~~ credit union may deposit,
34 maintain, pledge and assign for the benefit of the public
35 officer in the manner provided in this chapter, securities

1 approved by the public officer, the market value of which is
2 not less than one hundred ten percent of the total deposits of
3 public funds placed by that public officer in the ~~savings-and~~
4 ~~loan-or~~ credit union. The securities shall consist of any of
5 the following:

6 (1) Direct obligations of, or obligations that are insured
7 or fully guaranteed as to principal and interest by, the
8 United States of America or an agency or instrumentality of
9 the United States of America.

10 (2) Public bonds or obligations of this state or a
11 political subdivision of this state.

12 (3) Public bonds or obligations of another state or a
13 political subdivision of another state whose bonds are rated
14 within the two highest classifications of prime as established
15 by at least one of the standard rating services approved by
16 the superintendent of banking pursuant to chapter 17A.

17 (4) To the extent of the guarantee, loans, obligations, or
18 nontransferable letters of credit upon which the payment of
19 principal and interest is fully secured or guaranteed by the
20 United States of America or an agency or instrumentality of
21 the United States of America or the U.S. central credit union,
22 and the rating of the U.S. central credit union remains within
23 the two highest classifications of prime established by at
24 least one of the standard rating services approved by the
25 superintendent of banking by rule pursuant to chapter 17A.
26 The treasurer of state shall adopt rules pursuant to chapter
27 17A to implement this section.

28 (5) First lien mortgages which are valued according to
29 practices acceptable to the treasurer of state.

30 (6) Investments in an open-end management investment
31 company registered with the federal securities and exchange
32 commission under the federal Investment Company Act of 1940,
33 15 U.S.C. § 80(a), which is operated in accordance with 17
34 C.F.R. § 270.2a-7.

35 Direct obligations of, or obligations that are insured or

1 fully guaranteed as to principal and interest by, the United
2 States of America, which may be used to secure the deposit of
3 public funds under subparagraph (1), include investments in an
4 investment company or investment trust registered under the
5 federal Investment Company Act of 1940, 15 U.S.C. § 80a, the
6 portfolio of which is limited to the United States government
7 obligations described in subparagraph (1) and to repurchase
8 agreements fully collateralized by the United States
9 government obligations described in subparagraph (1), if the
10 investment company or investment trust takes delivery of the
11 collateral either directly or through an authorized custodian.

12 2. If public funds are secured by both the assets of a
13 ~~savings-and-loan-or~~ credit union and a bond of a surety
14 company, the assets and bond shall be held as security for a
15 rateable proportion of the deposit on the basis of the market
16 value of the assets and of the total amount of the surety
17 bonds.

18 Sec. 8. Section 12C.17, Code 1999, is amended to read as
19 follows:

20 12C.17 DEPOSIT OF SECURITIES.

21 1. A ~~savings-and-loan-or~~ credit union which receives
22 public funds shall pledge securities owned by it as required
23 by this chapter in one of the following methods:

24 a. The securities shall be deposited with the county,
25 city, or other public officers at the option of the officers.

26 b. The securities shall be deposited pursuant to a
27 bailment agreement with a financial institution having
28 facilities for the safekeeping of securities and doing
29 business in the state. A financial institution which receives
30 securities for safekeeping is liable to the public officer to
31 whom the securities are pledged for any loss suffered by the
32 public officer if the financial institution relinquishes
33 custody of the securities contrary to the provisions of this
34 chapter or the instrument governing the pledge of the
35 securities.

1 c. The securities shall be deposited with the federal
2 reserve bank of Chicago, Illinois, the federal home loan bank
3 of Des Moines, Iowa, or the U.S. central credit union pursuant
4 to a bailment agreement or a pledge custody agreement.

5 d. The securities may be deposited by any combination of
6 methods specified in paragraphs "a", "b", and "c".

7 2. A deposit of securities shall not be made in a facility
8 owned or controlled directly or indirectly by the financial
9 institution which deposits the securities.

10 3. All deposits of securities, other than deposits of
11 securities with the appropriate public officer, shall have a
12 joint custody receipt taken for the securities with one copy
13 delivered to the public officer and one copy delivered to the
14 ~~savings-and-loan-or~~ credit union. A ~~savings-and-loan-or~~
15 credit union pledging securities with a public officer may
16 cause the securities to be examined in the officer's office to
17 show the securities are placed with the officer as collateral
18 security and are not transferable except upon the conditions
19 provided in this chapter.

20 4. Upon written request from the appropriate public
21 officer but not less than ~~quarterly, a savings-and-loan-or~~
22 ~~credit-union~~ monthly, the federal home loan bank of Des
23 Moines, Iowa, shall report a description, the par value and
24 the market value of any pledged collateral ~~and-the-total~~
25 ~~deposits-of-public-funds-of-that-officer-in-the-savings-and~~
26 ~~loan-or~~ by a credit union.

27 Sec. 9. Section 12C.18, Code 1999, is amended to read as
28 follows:

29 12C.18 CONDITION OF SECURITY.

30 The condition of the surety bond or the deposit of
31 securities, instruments, or a joint custody receipt, must be
32 that the ~~savings-and-loan-or~~ credit union will promptly pay to
33 the parties entitled public funds, including any interest on
34 the funds, in its custody upon lawful demand and, when
35 required by law, pay the funds to the public officer who made

1 the deposit.

2 Sec. 10. Section 12C.19, subsections 3 and 4, Code 1999,
3 are amended to read as follows:

4 3. In the event of substitution, addition, or exchange of
5 securities, the holder or custodian of the securities shall,
6 on the same day, forward by ~~certified-mail,-return-receipt~~
7 ~~requested,~~ regular mail to the public officer and the savings
8 ~~and-loan-or~~ credit union, a receipt specifically describing
9 and identifying both the substituted or additional securities
10 ~~and-those-released-and-retuned-to-the-savings-and-loan-or~~
11 ~~credit-union.~~

12 4. The public officer which deposits public funds with a
13 ~~savings-and-loan-or~~ credit union shall require, if the market
14 value of the securities deposited with or for the benefit of
15 the officer falls below one hundred ten percent of the deposit
16 liability to the public officer, the deposit of additional
17 security to bring the total market value of the security to
18 one hundred ten percent of the amount of public funds held by
19 the ~~savings-and-loan-or~~ credit union.

20 Sec. 11. Section 12C.23, Code 1999, is amended to read as
21 follows:

22 12C.23 PAYMENT OF LOSSES IN A CREDIT UNION.

23 1. The pledging of securities by a depository credit union
24 pursuant to this chapter constitutes consent by the depository
25 credit union to the disposition of the securities in
26 accordance with this section.

27 The acceptance of public funds by a depository credit union
28 pursuant to this chapter constitutes consent by the depository
29 credit union to assessments by the treasurer of state in
30 accordance with this chapter.

31 2. The depository credit union and the security given for
32 the public funds in its hands are liable for payment if the
33 depository credit union fails to pay a check, draft, or
34 warrant drawn by the public officer or to account for a check,
35 draft, warrant, order, or certificates of deposit, or any

1 public funds entrusted to it if, in failing to pay, the
2 depository credit union acts contrary to the terms of an
3 agreement between the depository credit union and the public
4 body treasurer. The depository credit union and the security
5 given for the public funds in its hands are also liable for
6 payment if the depository credit union fails to pay an
7 assessment by the treasurer of state when the assessment is
8 due.

9 3. If a depository credit union is closed by its primary
10 regulatory officials, the public body with deposits in the
11 ~~depository shall notify the treasurer of state of the amount~~
12 ~~of any claim within thirty days of the closing~~ credit union
13 may sell the collateral to pay for any loss of principal and
14 accrued interest. ~~The treasurer of state shall implement the~~
15 ~~following procedures:~~

16 a. In cooperation with the responsible regulatory
17 officials for the depository credit union, the treasurer
18 public body shall validate the amount of public funds on
19 deposit at the defaulting depository credit union and the
20 amount of deposit insurance applicable to the deposits.

21 b. The loss to public depositors shall be satisfied, first
22 through any applicable deposit insurance and then through the
23 sale of securities pledged by the defaulting depository credit
24 union, and then the assets of the defaulting depository credit
25 union. The priority of claims are those established pursuant
26 to ~~section-524-13127-subsection-27~~ section 533.22, subsection
27 1, paragraph "b"~~7-or-section-534-517~~. To the extent permitted
28 by federal law, in the distribution of an insolvent federally
29 chartered depository's credit union's assets, the order of
30 payment of liabilities if its assets are insufficient to pay
31 in full all its liabilities for which claims are made shall be
32 in the same order as for the equivalent type of state
33 chartered depository credit union as provided in section
34 ~~524-13127-subsection-27~~ section 533.22, subsection 1,
35 paragraph "b"~~7-or-section-534-517~~.

1 c. The claim of a public depositor for purposes of this
2 section shall be the amount of the depositor's deposits plus
3 interest to the date the funds are distributed to the public
4 depositor at the rate the ~~depository-institution~~ credit union
5 agreed to pay on the funds reduced by the portion of the funds
6 which is insured by federal deposit insurance.

7 d. If the loss to public funds is not covered by insurance
8 and the proceeds of the failed ~~depository's~~ credit union's
9 assets which are liquidated within thirty days of the closing
10 of the ~~depository~~ credit union and pledged collateral, the
11 treasurer shall provide coverage of the remaining loss as
12 follows:

13 ~~{1}--If-the-loss-was-incurred-in-a-bank, then any further~~
14 ~~payments to cover the loss will come from the state sinking~~
15 ~~fund for public deposits in banks.--if the balance in that~~
16 ~~sinking fund is inadequate to pay the entire loss, then the~~
17 ~~treasurer shall obtain the additional amount needed by making~~
18 ~~an assessment against other banks whose public funds deposits~~
19 ~~exceed deposit insurance coverage.--A bank's assessment shall~~
20 ~~be determined by multiplying the total amount of the remaining~~
21 ~~loss to all public depositors by a percentage that represents~~
22 ~~that bank's proportional share of the average of uninsured~~
23 ~~public funds deposits held by all banks as of the reporting~~
24 ~~date under section 12C:21 immediately preceding the date the~~
25 ~~depository was closed.--Each bank shall pay its assessment to~~
26 ~~the treasurer within three business days after it receives~~
27 ~~notice of assessment.--if a bank fails to pay its assessment~~
28 ~~when due, the treasurer shall satisfy the assessment by~~
29 ~~selling securities pledged by that bank.--if the securities~~
30 ~~pledged by that bank are inadequate to pay the assessment, the~~
31 ~~treasurer of state shall make additional assessments as may be~~
32 ~~necessary against other banks which hold uninsured public~~
33 ~~funds to satisfy any unpaid assessment.--Any additional~~
34 ~~assessments shall be determined, collected, and satisfied in~~
35 ~~the same manner as the first assessment.--if a bank fails to~~

1 pay-its-assessment-when-due, the treasurer of state shall
2 initiate a lawsuit to collect the assessment. If a bank is
3 found to have failed to pay the assessment as required by this
4 subparagraph, the court shall order it to pay the assessment,
5 court costs, reasonable attorney's fees based on the amount of
6 time the attorney general's office spent preparing and
7 bringing the action, and reasonable expenses incurred by the
8 treasurer of state. Idle balances in the fund shall be
9 invested by the treasurer with earnings credited to the fund.
10 Fees paid by banks for administration of this chapter shall be
11 credited to the fund and the treasurer may deduct actual costs
12 of administration from the fund.

13 (2) If the loss was incurred in a credit union, then any
14 further payments to cover the loss will come from the state
15 sinking fund for public deposits in credit unions. If the
16 funds are inadequate to cover the entire loss, then the
17 treasurer shall make an assessment against other credit unions
18 who hold public funds. The assessment shall be determined by
19 multiplying the total amount of the remaining loss to public
20 depositors by a percentage that represents the average of
21 public funds deposits held by all credit unions during the
22 preceding twelve-month period ending on the last day of the
23 month immediately preceding the month the depository credit
24 union was closed. Each credit union shall pay its assessment
25 to the treasurer within three business days after it receives
26 notice of assessment. If a credit union fails to pay its
27 assessment when due, the treasurer of state shall initiate a
28 lawsuit to collect the assessment. If a credit union is found
29 to have failed to pay the assessment as required by this
30 subparagraph, the court shall order it to pay the assessment,
31 court costs, reasonable attorney's fees based upon the amount
32 of time the attorney general's office spent preparing and
33 bringing the action, and reasonable expenses incurred by the
34 treasurer of state's office. Idle balances in the fund are to
35 be invested by the treasurer with earnings credited to the

1 fund. Fees paid by credit unions for administration of this
2 chapter will be credited to the fund and the treasurer may
3 deduct actual costs of administration from the fund.

4 ~~{3}--If the loss was incurred in a savings and loan or a
5 savings bank, then any further payments to cover the loss will
6 come from the state sinking fund for public deposits in
7 savings and loan associations and savings banks.--If the funds
8 are inadequate to cover the entire loss, then the treasurer
9 shall make an assessment against other savings and loans and
10 savings banks who hold public funds.--The assessment shall be
11 determined by multiplying the total amount of the remaining
12 loss to public depositors by a percentage that represents the
13 average of public funds deposits held by all savings and loans
14 and savings banks during the preceding twelve month period
15 ending on the last day of the month immediately preceding the
16 month the depository was closed.--Each savings and loan and
17 savings bank shall pay its assessment to the treasurer within
18 three business days after it receives notice of assessment.
19 If a savings and loan or savings bank fails to pay its
20 assessment when due, the treasurer shall initiate a lawsuit to
21 collect the assessment.--If a savings and loan association or
22 a savings bank is found to have failed to pay the assessment
23 as required by this subparagraph, the court shall order it to
24 pay the assessment, court costs of the action, reasonable
25 attorney's fees based upon the amount of time the attorney
26 general's office spent preparing and bringing the action, and
27 reasonable expenses incurred by the treasurer of state's
28 office.~~

29 e. Any amount realized from the sale of collateral
30 pursuant to paragraph "d", subparagraphs ~~{1}~~ and ~~{2}~~ in excess
31 of the amount of a depository's credit union's assessment,
32 shall continue to be held by the treasurer, in the same
33 interest bearing investments available for public funds, as
34 collateral until that depository credit union provides
35 substitute collateral or is otherwise entitled to its release.

1 ~~f.--Following-collection-of-the-assessments,-the-state~~
2 ~~treasurer-shall-distribute-funds-to-the-public-depositors-of~~
3 ~~the-failed-depository-according-to-their-validated-claims.--If~~
4 ~~the-assets-available-are-less-than-the-total-deposits,-the~~
5 ~~treasurer-shall-prorate-the-claims.--A-public-depositor~~
6 ~~receiving-payment-under-this-section-shall-assign-to-the~~
7 ~~treasurer-any-interest-the-public-depositor-may-have-in-funds~~
8 ~~that-subsequently-become-available-to-depositors-of-the~~
9 ~~defaulting-depository.~~

10 Sec. 12. NEW SECTION. 12C.23A PAYMENT OF LOSSES IN A
11 BANK.

12 1. The acceptance of public funds by a bank pursuant to
13 this chapter constitutes consent by the bank to assessments by
14 the treasurer of state in accordance with this chapter.

15 2. The bank is liable for payment if the bank fails to pay
16 a check, draft, or warrant drawn by the public officer or to
17 account for a check, draft, warrant, order, or certificates of
18 deposit, or any public funds entrusted to it if, in failing to
19 pay, the bank acts contrary to the terms of an agreement
20 between the bank and the public body treasurer. The bank is
21 also liable for payment if the bank fails to pay an assessment
22 by the treasurer of state when the assessment is due.

23 3. If a bank is closed by its primary regulatory
24 officials, the public body with deposits in the bank shall
25 notify the treasurer of state of the amount of any claim
26 within thirty days of the closing. The treasurer of state
27 shall implement the following procedures:

28 a. In cooperation with the responsible regulatory
29 officials for the bank, the treasurer shall validate the
30 amount of public funds on deposit at the defaulting bank and
31 the amount of deposit insurance applicable to the deposits.

32 b. The recovery of any loss to public depositors shall
33 begin with applicable deposit insurance. The priority of
34 claims are those established pursuant to section 524.1312,
35 subsection 2, section 533.22, subsection 1, paragraph "b", or

1 section 534.517. To the extent permitted by federal law, in
2 the distribution of an insolvent federally chartered bank's
3 assets, the order of payment of liabilities if its assets are
4 insufficient to pay in full all its liabilities for which
5 claims are made shall be in the same order as for a state-
6 chartered bank as provided in section 524.1312, subsection 2.

7 c. The claim of a public depositor for purposes of this
8 section shall be the amount of the depositor's deposits plus
9 interest to the date the funds are distributed to the public
10 depositor at the rate the bank agreed to pay on the funds
11 reduced by the portion of the funds which is insured by
12 federal deposit insurance.

13 d. If the loss to public funds is not covered by insurance
14 and the proceeds of the failed bank's assets which are
15 liquidated within thirty days of the closing of the bank, are
16 not sufficient to cover the loss, then any further payments to
17 cover the loss will come from the state sinking fund for
18 public deposits in banks. If the balance in that sinking fund
19 is inadequate to pay the entire loss, then the treasurer shall
20 obtain the additional amount needed by making an assessment
21 against other banks whose public funds deposits exceed deposit
22 insurance coverage. A bank's assessment shall be determined
23 by multiplying the total amount of the remaining loss to all
24 public depositors by a percentage that represents that bank's
25 proportional share of the average of uninsured public funds
26 deposits held by all banks. Each bank shall pay its
27 assessment to the treasurer within three business days after
28 it receives notice of assessment. If a bank fails to pay its
29 assessment when due, the treasurer of state shall initiate a
30 lawsuit to collect the assessment. If a bank is found to have
31 failed to pay the assessment as required by this subparagraph,
32 the court shall order it to pay the assessment, court costs,
33 reasonable attorney fees based on the amount of time the
34 attorney general's office spent preparing and bringing the
35 action, and reasonable expenses incurred by the treasurer of

1 state. Idle balances in the fund shall be invested by the
2 treasurer with earnings credited to the fund. Fees paid by
3 banks for administration of this chapter shall be credited to
4 the fund and the treasurer may deduct actual costs of
5 administration from the fund.

6 e. Following collection of the assessments, the state
7 treasurer shall distribute funds to the public depositors of
8 the failed bank according to their validated claims. If the
9 assets available are less than the total deposits, the
10 treasurer shall prorate the claims. A public depositor
11 receiving payment under this section shall assign to the
12 treasurer any interest the public depositor may have in funds
13 that subsequently become available to depositors of the
14 defaulting bank.

15 Sec. 13. Section 12C.25, subsection 3, Code 1999, is
16 amended by striking the subsection.

17 Sec. 14. Section 12C.21, Code 1999, is repealed.

18 Sec. 15. EFFECTIVE DATE. This Act, being deemed of
19 immediate importance, takes effect upon enactment.

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AN ACT

RELATING TO THE DEPOSIT OF PUBLIC FUNDS AND THE CONDITIONS WHICH MUST BE MET BY A SAVINGS AND LOAN ASSOCIATION OR SAVINGS BANK TO BE ELIGIBLE TO RECEIVE SUCH DEPOSITS, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 12C.1, subsection 2, paragraph c, Code 1999, is amended to read as follows:

c. "Bank" means a corporation engaged in the business of banking authorized by law to receive deposits and whose deposits are insured by the bank insurance fund of the federal deposit insurance corporation and includes any office of a bank. "Bank" also means a savings and loan or savings association.

Sec. 2. Section 12C.1, subsection 2, paragraph f, Code 1999, is amended to read as follows:

f. "Financial institution" means a ~~bank, savings and loan, or~~ a credit union.

Sec. 3. Section 12C.1, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. If a depository is ~~a savings and loan or~~ a credit union, then public deposits in the ~~savings and loan or~~ credit union shall be secured pursuant to sections 12C.16 through 12C.19 and sections 12C.23 and 12C.24.

Sec. 4. Section 12C.1, subsection 3, paragraph b, Code 1999, is amended to read as follows:

b. If a depository is a bank, then public deposits in the bank shall be secured pursuant to sections ~~12C.21, 12C.23, and~~ 12C.24.

Sec. 5. Section 12C.6A, subsection 5, paragraphs a, b, and c, Code 1999, are amended to read as follows:

a. A person who believes a ~~bank, savings and loan association, or savings bank~~ has failed to meet its community reinvestment responsibility may file a complaint with the committee detailing the basis for that belief.

b. If any committee member, in the member's discretion, finds that the complaint has merit, the member may order the ~~bank, savings and loan association, or savings bank~~ alleged to have failed to meet its community reinvestment responsibility to attend and participate in a meeting with the complainant. The committee member may specify who, at minimum, shall represent the financial institution at the meeting. At the meeting, or at any other time, the ~~financial institution~~ bank may, but is not required to, enter into an agreement with a complainant to correct alleged failings.

c. A majority of the committee may order a ~~bank, savings and loan association, or savings bank,~~ against which a complaint has been filed pursuant to this subsection, to disclose such additional information relating to community reinvestment as required by the order of the majority of the committee.

Sec. 6. Section 12C.15, Code 1999, is amended to read as follows:

12C.15 RESTRICTION ON REQUIRING COLLATERAL.

A local government shall not require a pledge of collateral for that portion of the local government's deposits in a ~~savings and loan or~~ credit union that is covered by insurance of a federal agency or instrumentality.

Sec. 7. Section 12C.16, Code 1999, is amended to read as follows:

12C.16 SECURITY FOR DEPOSIT OF PUBLIC FUNDS.

1. Before a deposit of public funds is made by a public officer with a ~~savings-and-loan-or~~ credit union in excess of the amount federally insured, the public officer shall obtain security for the deposit by one or more of the following:

a. The ~~savings-and-loan-or~~ credit union may give to the public officer a corporate surety bond of a surety corporation approved by the treasury department of the United States and authorized to do business in this state, which bond shall be in an amount equal to the public funds on deposit at any time. The bond shall be conditioned that the deposit shall be paid promptly on the order of the public officer making the deposit and shall be approved by the officer making the deposit.

b. The ~~savings-and-loan-or~~ credit union may deposit, maintain, pledge and assign for the benefit of the public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the ~~savings-and-loan-or~~ credit union. The securities shall consist of any of the following:

(1) Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

(2) Public bonds or obligations of this state or a political subdivision of this state.

(3) Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

(4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America or the U.S. central credit union, and the rating of the U.S. central credit union remains within the two highest classifications of prime established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to chapter 17A. The treasurer of state shall adopt rules pursuant to chapter 17A to implement this section.

(5) First lien mortgages which are valued according to practices acceptable to the treasurer of state.

(6) Investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), which is operated in accordance with 17 C.F.R. § 270.2a-7.

Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure the deposit of public funds under subparagraph (1), include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in subparagraph (1) and to repurchase agreements fully collateralized by the United States government obligations described in subparagraph (1), if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

2. If public funds are secured by both the assets of a ~~savings-and-loan-or~~ credit union and a bond of a surety company, the assets and bond shall be held as security for a rateable proportion of the deposit on the basis of the market value of the assets and of the total amount of the surety bonds.

Sec. 8. Section 12C.17, Code 1999, is amended to read as follows:

12C.17 DEPOSIT OF SECURITIES.

1. A ~~savings-and-loan-or~~ credit union which receives public funds shall pledge securities owned by it as required by this chapter in one of the following methods:
 - a. The securities shall be deposited with the county, city, or other public officers at the option of the officers.
 - b. The securities shall be deposited pursuant to a bailment agreement with a financial institution having facilities for the safekeeping of securities and doing business in the state. A financial institution which receives securities for safekeeping is liable to the public officer to whom the securities are pledged for any loss suffered by the public officer if the financial institution relinquishes custody of the securities contrary to the provisions of this chapter or the instrument governing the pledge of the securities.
 - c. The securities shall be deposited with the federal reserve bank of ~~Chicago, Illinois~~, the federal home loan bank of Des Moines, Iowa, or the U.S. central credit union pursuant to a bailment agreement or a pledge custody agreement.
 - d. The securities may be deposited by any combination of methods specified in paragraphs "a", "b", and "c".
2. A deposit of securities shall not be made in a facility owned or controlled directly or indirectly by the financial institution which deposits the securities.
3. All deposits of securities, other than deposits of securities with the appropriate public officer, shall have a joint custody receipt taken for the securities with one copy delivered to the public officer and one copy delivered to the ~~savings-and-loan-or~~ credit union. A ~~savings-and-loan-or~~ credit union pledging securities with a public officer may cause the securities to be examined in the officer's office to show the securities are placed with the officer as collateral

security and are not transferable except upon the conditions provided in this chapter.

4. Upon written request from the appropriate public officer but not less than ~~quarterly, a savings-and-loan-or credit-union~~ monthly, the federal home loan bank of Des Moines, Iowa, or the U.S. central credit union, shall report a description, the par value and the market value of any pledged collateral ~~and the total deposits of public funds of that officer in the savings-and-loan-or~~ by a credit union.

Sec. 9. Section 12C.18, Code 1999, is amended to read as follows:

12C.18 CONDITION OF SECURITY.

The condition of the surety bond or the deposit of securities, instruments, or a joint custody receipt, must be that the ~~savings-and-loan-or~~ credit union will promptly pay to the parties entitled public funds, including any interest on the funds, in its custody upon lawful demand and, when required by law, pay the funds to the public officer who made the deposit.

Sec. 10. Section 12C.19, subsections 3 and 4, Code 1999, are amended to read as follows:

3. In the event of substitution, addition, or exchange of securities, the holder or custodian of the securities shall, on the same day, forward by ~~certified-mail, return-receipt requested,~~ regular mail to the public officer and the ~~savings-and-loan-or~~ credit union, a receipt specifically describing and identifying both the substituted or additional securities ~~and those released and returned to the savings-and-loan-or credit-union.~~
4. The public officer which deposits public funds with a ~~savings-and-loan-or~~ credit union shall require, if the market value of the securities deposited with or for the benefit of the officer falls below one hundred ten percent of the deposit liability to the public officer, the deposit of additional security to bring the total market value of the security to

one hundred ten percent of the amount of public funds held by the savings-and-loan-or credit union.

Sec. 11. Section 12C.23, Code 1999, is amended to read as follows:

12C.23 PAYMENT OF LOSSES IN A CREDIT UNION.

1. The pledging of securities by a depository credit union pursuant to this chapter constitutes consent by the depository credit union to the disposition of the securities in accordance with this section.

The acceptance of public funds by a depository credit union pursuant to this chapter constitutes consent by the depository credit union to assessments by the treasurer of state in accordance with this chapter.

2. The depository credit union and the security given for the public funds in its hands are liable for payment if the depository credit union fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order, or certificates of deposit, or any public funds entrusted to it if, in failing to pay, the depository credit union acts contrary to the terms of an agreement between the depository credit union and the public body treasurer. The depository credit union and the security given for the public funds in its hands are also liable for payment if the depository credit union fails to pay an assessment by the treasurer of state when the assessment is due.

3. If a depository credit union is closed by its primary regulatory officials, the public body with deposits in the depository shall notify the treasurer of state of the amount of any claim within thirty days of the closing credit union may sell the collateral to pay for any loss of principal and accrued interest. The treasurer of state shall implement the following procedures:

a. In cooperation with the responsible regulatory officials for the depository credit union, the treasurer

public body shall validate the amount of public funds on deposit at the defaulting depository credit union and the amount of deposit insurance applicable to the deposits.

b. The loss to public depositors shall be satisfied, first through any applicable deposit insurance and then through the sale of securities pledged by the defaulting depository credit union, and then the assets of the defaulting depository credit union. The priority of claims are those established pursuant to ~~section 524-1312, subsection 2,~~ section 533.22, subsection 1, paragraph "b"~~-or-section 534-517.~~ To the extent permitted by federal law, in the distribution of an insolvent federally chartered depository's credit union's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for the equivalent type of state chartered depository credit union as provided in ~~section 524-1312, subsection 2,~~ section 533.22, subsection 1, paragraph "b"~~-or-section 534-517.~~

c. The claim of a public depositor for purposes of this section shall be the amount of the depositor's deposits plus interest to the date the funds are distributed to the public depositor at the rate the depository-institution credit union agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

d. If the loss to public funds is not covered by insurance and the proceeds of the failed depository's credit union's assets which are liquidated within thirty days of the closing of the depository credit union and pledged collateral, the treasurer shall provide coverage of the remaining loss as follows:

~~{i}--if the loss was incurred in a bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making~~

an assessment against other banks whose public funds deposits exceed deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents that bank's proportional share of the average of uninsured public funds deposits held by all banks as of the reporting date under section 126.21 immediately preceding the date the depository was closed. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that bank. If the securities pledged by that bank are inadequate to pay the assessment, the treasurer of state shall make additional assessments as may be necessary against other banks which hold uninsured public funds to satisfy any unpaid assessment. Any additional assessments shall be determined, collected, and satisfied in the same manner as the first assessment. If a bank fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney's fees based on the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state. Idle balances in the fund shall be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter shall be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

(2) If the loss was incurred in a credit union, then any further payments to cover the loss will come from the state sinking fund for public deposits in credit unions. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other credit unions

who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve-month period ending on the last day of the month immediately preceding the month the depository credit union was closed. Each credit union shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a credit union fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a credit union is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney's fees based upon the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

(3) If the loss was incurred in a savings and loan or a savings bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in savings and loan associations and savings banks. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other savings and loans and savings banks who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all savings and loans and savings banks during the preceding twelve-month period ending on the last day of the month immediately preceding the month the depository was closed. Each savings and loan and savings bank shall pay its assessment to the treasurer within

~~three-business-days-after-it-receives-notice-of-assessment-
if-a-savings-and-loan-or-savings-bank-fails-to-pay-its
assessment-when-due,-the-treasurer-shall-initiate-a-lawsuit-to
collect-the-assessment;-if-a-savings-and-loan-association-or
a-savings-bank-is-found-to-have-failed-to-pay-the-assessment
as-required-by-this-subparagraph,-the-court-shall-order-it-to
pay-the-assessment,-court-costs-of-the-action,-reasonable
attorney's-fees-based-upon-the-amount-of-time-the-attorney
general's-office-spent-preparing-and-bringing-the-action,-and
reasonable-expenses-incurred-by-the-treasurer-of-state's
office-~~

e. Any amount realized from the sale of collateral pursuant to paragraph "d", subparagraphs (1) and (2) in excess of the amount of a depository's credit union's assessment, shall continue to be held by the treasurer, in the same interest bearing investments available for public funds, as collateral until that depository credit union provides substitute collateral or is otherwise entitled to its release.

~~f--Following-collection-of-the-assessments,-the-state
treasurer-shall-distribute-funds-to-the-public-depositors-of
the-failed-depository-according-to-their-validated-claims--if
the-assets-available-are-less-than-the-total-deposits,-the
treasurer-shall-prorate-the-claims--A-public-depositor
receiving-payment-under-this-section-shall-assign-to-the
treasurer-any-interest-the-public-depositor-may-have-in-funds
that-subsequently-become-available-to-depositors-of-the
defaulting-depository-~~

Sec. 12. NEW SECTION. 12C.23A PAYMENT OF LOSSES IN A BANK.

1. The acceptance of public funds by a bank pursuant to this chapter constitutes consent by the bank to assessments by the treasurer of state in accordance with this chapter.

2. The bank is liable for payment if the bank fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order, or certificates of

deposit, or any public funds entrusted to it if, in failing to pay, the bank acts contrary to the terms of an agreement between the bank and the public body treasurer. The bank is also liable for payment if the bank fails to pay an assessment by the treasurer of state when the assessment is due.

3. If a bank is closed by its primary regulatory officials, the public body with deposits in the bank shall notify the treasurer of state of the amount of any claim within thirty days of the closing. The treasurer of state shall implement the following procedures:

a. In cooperation with the responsible regulatory officials for the bank, the treasurer shall validate the amount of public funds on deposit at the defaulting bank and the amount of deposit insurance applicable to the deposits.

b. The recovery of any loss to public depositors shall begin with applicable deposit insurance. The priority of claims are those established pursuant to section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.517. To the extent permitted by federal law, in the distribution of an insolvent federally chartered bank's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for a state-chartered bank as provided in section 524.1312, subsection 2.

c. The claim of a public depositor for purposes of this section shall be the amount of the depositor's deposits plus interest to the date the funds are distributed to the public depositor at the rate the bank agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

d. If the loss to public funds is not covered by insurance and the proceeds of the failed bank's assets which are liquidated within thirty days of the closing of the bank, are not sufficient to cover the loss, then any further payments to cover the loss will come from the state sinking fund for

public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks whose public funds deposits exceed deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents that bank's proportional share of the average of uninsured public funds deposits held by all banks. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney fees based on the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state. Idle balances in the fund shall be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter shall be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

e. Following collection of the assessments, the state treasurer shall distribute funds to the public depositors of the failed bank according to their validated claims. If the assets available are less than the total deposits, the treasurer shall prorate the claims. A public depositor receiving payment under this section shall assign to the treasurer any interest the public depositor may have in funds that subsequently become available to depositors of the defaulting bank.

Sec. 13. Section 12C.25, subsection 3, Code 1999, is amended by striking the subsection.

Sec. 14. Section 12C.21, Code 1999, is repealed.

Sec. 15. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 571, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 11, 1999

THOMAS J. VILSACK
Governor