

Lamberti  
Hansen  
King

SSB-1124  
Commerce

Succeeded by  
SENATE FILE HF 319  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY CHAIR-  
PERSON JENSEN)

Passed Senate, Date \_\_\_\_\_ Passed House, 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 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 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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Substituted for By HF 571  
3/24/99 (P.763)

FILED MAR 8 1999

SENATE FILE **319**  
BY COMMITTEE ON COMMERCE

**WITHDRAWN**  
3/24/99

(SUCCESSOR TO SSB 1124)  
(COMPANION TO LSB 2158HV)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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SF 319



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13 1999, is amended to read as follows:

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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  
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6 follows:

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9 for that portion of the local government's deposits in a  
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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 pursuant  
33 to a bailment agreement or a pledge custody agreement.

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

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

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

14 4. Upon written request from the appropriate public  
15 officer but not less than ~~quarterly~~, ~~a-savings-and-loan-or~~  
16 ~~credit-union~~ monthly, the federal home loan bank of Des  
17 Moines, Iowa, 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~~ by a credit  
20 union to the public entity represented by the requesting  
21 public officer.

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

24 12C.18 CONDITION OF SECURITY.

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

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

34 3. In the event of substitution, addition, or exchange of  
35 securities, the holder or custodian of the securities shall,

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

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

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

17 12C.23 PAYMENT OF LOSSES IN A CREDIT UNION.

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

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

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

1 payment if the depository credit union fails to pay an  
2 assessment by the treasurer of state when the assessment is  
3 due.

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

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

15 b. The loss to public depositors shall be satisfied, first  
16 through any applicable deposit insurance and then through the  
17 sale of securities pledged by the defaulting depository credit  
18 union, and then the assets of the defaulting depository credit  
19 union. The priority of claims are those established pursuant  
20 to ~~section 524.13127-subsection 27~~ section 533.22, subsection  
21 1, paragraph "b", ~~or section 534.517~~. To the extent permitted  
22 by federal law, in the distribution of an insolvent federally  
23 chartered ~~depository's~~ credit union's assets, the order of  
24 payment of liabilities if its assets are insufficient to pay  
25 in full all its liabilities for which claims are made shall be  
26 in the same order as for the equivalent type of state  
27 chartered depository credit union as provided in section  
28 ~~524.13127-subsection 27~~ section 533.22, subsection 1,  
29 paragraph "b", ~~or section 534.517~~.

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

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

7 ~~{1}--If the loss was incurred in a bank, then any further~~  
8 ~~payments to cover the loss will come from the state sinking~~  
9 ~~fund for public deposits in banks.--If the balance in that~~  
10 ~~sinking fund is inadequate to pay the entire loss, then the~~  
11 ~~treasurer shall obtain the additional amount needed by making~~  
12 ~~an assessment against other banks whose public funds deposits~~  
13 ~~exceed deposit insurance coverage.--A bank's assessment shall~~  
14 ~~be determined by multiplying the total amount of the remaining~~  
15 ~~loss to all public depositors by a percentage that represents~~  
16 ~~that bank's proportional share of the average of uninsured~~  
17 ~~public funds deposits held by all banks as of the reporting~~  
18 ~~date under section 12C:21 immediately preceding the date the~~  
19 ~~depository was closed.--Each bank shall pay its assessment to~~  
20 ~~the treasurer within three business days after it receives~~  
21 ~~notice of assessment.--If a bank fails to pay its assessment~~  
22 ~~when due, the treasurer shall satisfy the assessment by~~  
23 ~~selling securities pledged by that bank.--If the securities~~  
24 ~~pledged by that bank are inadequate to pay the assessment, the~~  
25 ~~treasurer of state shall make additional assessments as may be~~  
26 ~~necessary against other banks which hold uninsured public~~  
27 ~~funds to satisfy any unpaid assessment.--Any additional~~  
28 ~~assessments shall be determined, collected, and satisfied in~~  
29 ~~the same manner as the first assessment.--If a bank fails to~~  
30 ~~pay its assessment when due, the treasurer of state shall~~  
31 ~~initiate a lawsuit to collect the assessment.--If a bank is~~  
32 ~~found to have failed to pay the assessment as required by this~~  
33 ~~subparagraph, the court shall order it to pay the assessment,~~  
34 ~~court costs, reasonable attorney's fees based on the amount of~~  
35 ~~time the attorney general's office spent preparing and~~



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

7 {2}--If-the-loss-was-incurred-in-a-credit-union,-then-any  
8 further-payments-to-cover-the-loss-will-come from the state  
9 sinking fund for public deposits in credit unions. If the  
10 funds are inadequate to cover the entire loss, then the  
11 treasurer shall make an assessment against other credit unions  
12 who hold public funds. The assessment shall be determined by  
13 multiplying the total amount of the remaining loss to public  
14 depositors by a percentage that represents the average of  
15 public funds deposits held by all credit unions during the  
16 preceding twelve-month period ending on the last day of the  
17 month immediately preceding the month the depository credit  
18 union was closed. Each credit union shall pay its assessment  
19 to the treasurer within three business days after it receives  
20 notice of assessment. If a credit union fails to pay its  
21 assessment when due, the treasurer of state shall initiate a  
22 lawsuit to collect the assessment. If a credit union is found  
23 to have failed to pay the assessment as required by this  
24 subparagraph, the court shall order it to pay the assessment,  
25 court costs, reasonable attorney's fees based upon the amount  
26 of time the attorney general's office spent preparing and  
27 bringing the action, and reasonable expenses incurred by the  
28 treasurer of state's office. Idle balances in the fund are to  
29 be invested by the treasurer with earnings credited to the  
30 fund. Fees paid by credit unions for administration of this  
31 chapter will be credited to the fund and the treasurer may  
32 deduct actual costs of administration from the fund.

33 {3}--If-the-loss-was-incurred-in-a-savings-and-loan-or-a  
34 savings-bank,-then-any-further-payments-to-cover-the-loss-will  
35 come-from-the-state-sinking-fund-for-public-deposits-in

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

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

30 f.--Following-collection-of-the-assessments,-the-state  
31 treasurer-shall-distribute-funds-to-the-public-depositors-of  
32 the-failed-depository-according-to-their-validated-claims.--If  
33 the-assets-available-are-less-than-the-total-deposits,-the  
34 treasurer-shall-prorate-the-claims.--A-public-depositor  
35 receiving-payment-under-this-section-shall-assign-to-the

1 ~~treasurer-any-interest-the-public-depositor-may-have-in-funds~~  
2 ~~that-subsequently-become-available-to-depositors-of-the~~  
3 ~~defaulting-depository-~~

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

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

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

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

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

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

1 order as for a state-chartered bank as provided in section  
2 524.1312, subsection 2.

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

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

1 administration of this chapter shall be credited to the fund  
2 and the treasurer may deduct actual costs of administration  
3 from the fund.

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

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

15 EXPLANATION

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

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

34

35

## SENATE FILE 319

S-3104

1 Amend Senate File 319 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, 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:

S-3104

-1-

S-3104

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 17 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 20 and 21 and  
8 inserting the following: "union."

9 8. Page 7, line 8, by inserting after the word  
10 "principal" the following: "and accrued interest".

11 9. Page 7, lines 11 and 12, by striking the words  
12 "public body treasurer" and inserting the following:  
13 "treasurer public body".

14 10. Page 11, by striking lines 26 through 28 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 22 through 24 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 14 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 JEFF LAMBERTI

PATRICK J. DELUHERY

*adopted 3/24/99 (p763)*

S-3104 FILED MARCH 18, 1999