

# Chapter 295

2007 EDITION

## Depositories of Public Funds and Securities

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**295.001 Definitions for ORS 295.001 to 295.108.** As used in ORS 295.001 to 295.108, unless the context requires otherwise:

(1) “Adequately capitalized” means a bank depository that is classified as adequately capitalized by its primary federal regulatory authority.

(2) “Bank depository” means an insured institution or trust company that:

(a) Maintains a head office or branch in this state in the capacity of an insured institution or trust company; and

(b) Complies with ORS 295.008.

(3) “Business day” means any day other than a federal or State of Oregon legal holiday or a day on which offices of the State of Oregon are otherwise authorized by law to remain closed.

(4) “Credit union depository” means a credit union as defined in ORS 723.006 or a federal credit union if:

(a) The shares and deposits of the credit union or federal credit union are insured by the National Credit Union Share Insurance Fund; and

(b) The credit union or federal credit union maintains a head office or branch in this state in the capacity of a credit union or federal credit union.

(5) “Custodian bank” or “custodian” means one of the following institutions designated by the bank depository for its own account:

(a) The Federal Home Loan Bank designated to serve this state, or any branch of that bank; or

(b) Any insured institution or trust company that:

(A) Is authorized to accept deposits or transact trust business in this state;

(B) Complies with ORS 295.008; and

(C) Has been approved by the State Treasurer to serve as a custodian bank, if the State Treasurer has approved custodians under ORS 295.008.

(6) “Custodian’s receipt” or “receipt” means a document issued by a custodian bank describing the securities deposited with it by a bank depository to secure public fund deposits.

(7) “Depository” means a bank depository or a credit union depository.

(8) “Financial institution outside this state” means a financial institution, as defined in ORS 706.008, that is not an extranational institution, as defined in ORS 706.008, and is not a bank depository or credit union depository, as defined in this section.

(9) “Insured institution” means an insured institution as defined in ORS 706.008.

(10) “Loss” means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction:

(a) Restraining a bank depository from making payments of deposit liabilities; or

(b) Appointing a receiver for a public depository.

(11) “Maximum liability” of a bank depository on any given date means a sum equal to:

(a) For a well capitalized bank depository, 10 percent of the greater of:

(A) All public funds held by the bank depository, as shown on the most recent treasurer report;

(B) The average of the balances of public funds held by the bank depository, as shown on the last four immediately preceding treasurer reports; or

(C) An amount otherwise prescribed in ORS 295.001 to 295.108.

(b) For an adequately capitalized bank depository, 25 percent of the greater of:

(A) All public funds held by the bank depository, as shown on the most recent treasurer report;

(B) The average of the balances of public funds held by the bank depository, as shown on the last four immediately preceding treasurer reports; or

(C) An amount otherwise prescribed in ORS 295.001 to 295.108.

(c) For an undercapitalized bank depository, 110 percent of the greater of:

(A) All public funds held by the bank depository; or

(B) The average of the balances of public funds held by the bank depository, as shown on the last four immediately preceding treasurer reports.

(12) “Net worth” of a bank depository means:

(a) The equity capital of the bank depository, as shown on the immediately preceding report of condition and income, and may include capital notes and debentures that are subordinate to the interests of depositors; or

(b) An amount of equity capital designated by the State Treasurer.

(13) “Pledge agreement” means a written agreement among an insured institution or trust company, the State Treasurer and a custodian that pledges the securities deposited by the insured institution or trust company with the custodian as collateral for deposits of public funds held by the insured institution or trust company. The agreement

must be approved by the board of directors or loan committee of the insured institution or trust company and must be continuously maintained as a written record of the insured institution or trust company.

(14) "Public funds" or "funds" means funds under the control or in the custody of a public official by virtue of office.

(15) "Public official" means each officer or employee of this state or any agency, political subdivision or public or municipal corporation thereof, or any housing authority, who by law is made the custodian of or has control of any public funds.

(16) "Report of condition and income" means the quarterly report submitted to a bank depository's primary federal regulatory authority.

(17) "Security" or "securities" means:

(a) Obligations of the United States, including those of its agencies and instrumentalities and of government sponsored enterprises;

(b) Obligations of the International Bank for Reconstruction and Development;

(c) Bonds of any state of the United States:

(A) That are rated in one of the four highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating state and municipal bonds; or

(B) Having once been so rated are ruled to be eligible securities for the purposes of ORS 295.001 to 295.108, notwithstanding the loss of such rating;

(d) Bonds of any county, city, school district, port district or other public body in the United States payable from or secured by ad valorem taxes and that meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(e) Bonds of any county, city, school district, port district or other public body issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county or city within the State of Oregon, if the issuing body has not been in default with respect to the payment of principal or interest on any of its bonds within the preceding 10 years or during the period of its existence if that is less than 10 years;

(f) With the permission of the State Treasurer and in accordance with rules adopted by the State Treasurer, loans made to any county, city, school district, port district or other public body in the State of Oregon, if the borrower has not been in default

with respect to the payment of principal or interest on any of its loans within the preceding 10 years or during the period of its existence if that is less than 10 years;

(g) With the permission of the State Treasurer and in accordance with rules adopted by the State Treasurer, bond anticipation notes issued, sold or assumed by an authority under ORS 441.560;

(h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or Federal Reserve bank;

(i) Debt obligations of domestic corporations that are rated in one of the three highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations; and

(j) Collateralized mortgage obligations and real estate mortgage investment conduits that are rated in one of the two highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations.

(18) "Treasurer report" means a written report signed or authenticated by an officer of a bank depository setting forth as of the close of business on a specified date:

(a) The total amount of public funds on deposit with the bank depository;

(b) The net worth of the bank depository;

(c) The amount and nature of eligible collateral then on deposit with its custodian to collateralize the bank depository's public funds deposits; and

(d) The identity of its custodian.

(19) "Treasurer report due date" means a date not less than 10 business days after the date a bank depository's report of condition and income is due to be submitted to its federal regulatory authority.

(20) "Trust company" means a trust company as defined in ORS 706.008.

(21) "Undercapitalized" means a bank depository that is classified as undercapitalized by its primary federal regulatory authority.

(22) "Value" means the current market value of securities.

(23) "Well capitalized" means a bank depository that is classified as well capitalized by its primary federal regulatory authority. [Formerly 295.005]

**Note:** The amendments to 295.001 (formerly 295.005) by section 15a, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on

deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, including amendments by section 123, chapter 783, Oregon Laws 2007, is set forth for the user's convenience.

**295.001.** As used in ORS 295.001 to 295.125, unless the context requires otherwise:

(1) "Certificate of participation" or "certificate" means a nonnegotiable document issued by a pool manager to a public official.

(2) "Custodian bank" or "custodian" means the following institutions designated by the depository bank for its own account:

(a) The Federal Reserve Bank designated to serve this state, or any branch of that bank;

(b) The Federal Home Loan Bank designated to serve this state, or any branch of that bank;

(c) Any insured institution or trust company, as those terms are defined in ORS 706.008, that is authorized to accept deposits or transact trust business in this state and that complies with ORS 295.008; and

(d) The fiscal agency of the State of Oregon, duly appointed and acting as such agency pursuant to ORS 286A.132.

(3) "Custodian's receipt" or "receipt" means a document issued by a custodian bank to a pool manager describing the securities deposited with it by a depository bank to secure public fund deposits.

(4) "Depository bank" or "depository" means an insured institution or trust company, as those terms are defined in ORS 706.008, a credit union, as defined in ORS 723.006, the shares and deposits of which are insured by the National Credit Union Share Insurance Fund, or a federal credit union, if the institution, trust company or credit union:

(a) Maintains a head office or a branch in this state in the capacity of an insured institution, trust company, credit union or federal credit union; and

(b) In the case of an insured institution or trust company, complies with ORS 295.008.

(5) "Pool manager" means:

(a) The State Treasurer;

(b) Any insured institution or trust company, as those terms are defined in ORS 706.008, a credit union, as defined in ORS 723.006, the shares and deposits of which are insured by the National Credit Union Share Insurance Fund, or a federal credit union, if the institution, trust company or credit union:

(A) Is authorized to accept deposits or transact trust business in this state; and

(B) In the case of an insured institution or trust company, complies with ORS 295.008;

(c) The Federal Reserve Bank designated to serve this state, or any branch of that bank; or

(d) The Federal Home Loan Bank designated to serve this state, or any branch of that bank.

(6) "Public funds" or "funds" means funds under the control or in the custody of a public official by virtue of office.

(7) "Security" or "securities" means:

(a) Obligations of the United States, including those of its agencies and instrumentalities;

(b) Obligations of the International Bank for Reconstruction and Development;

(c) Bonds of any state of the United States:

(A) That are rated in one of the four highest grades by a recognized investment service organization that has been engaged regularly and continuously for a pe-

riod of not less than 10 years in rating state and municipal bonds; or

(B) Having once been so rated are ruled to be eligible securities for the purposes of ORS 295.001 to 295.125, notwithstanding the loss of such rating;

(d) Bonds of any county, city, school district, port district or other public body in the United States payable from ad valorem taxes levied generally on substantially all property within the issuing body and that meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(e) Bonds of any county, city, school district, port district or other public body issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county or city within the State of Oregon, if the issuing body has not been in default with respect to the payment of principal or interest on any of its bonds within the preceding 10 years or during the period of its existence if that is less than 10 years;

(f) Bond anticipation notes issued, sold or assumed by an authority under ORS 441.560;

(g) One-family to four-family housing mortgage loan notes related to property situated in the State of Oregon, which are owned by a depository bank, no payment on which is more than 90 days past due, and which are eligible collateral for loans from the Federal Reserve Bank of San Francisco under section 10(b) of the Federal Reserve Act and regulations thereunder;

(h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or Federal Reserve bank;

(i) Debt obligations of domestic corporations that are rated in one of the three highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations;

(j) Collateralized mortgage obligations and real estate mortgage investment conduits that are rated in one of the two highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations; and

(k) One-family to four-family housing mortgages that have been secured by means of a guarantee as to full repayment of principal and interest by an agency of the United States Government, including the Government National Mortgage Association, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(8) "Public official" means each officer or employee of this state or any agency, political subdivision or public or municipal corporation thereof who by law is made the custodian of or has control of any public funds.

(9) "Value" means the current market value of securities.

**295.002 Deposit of public funds; limitation; exception.** (1) Any public official may retain undeposited such reasonable cash working fund as is fixed by the governing body of the political subdivision or public corporation for which the public official acts. Except to the extent of such cash working fund, each public official shall deposit public funds in the custody or control of the public official in one or more depositories currently qualified pursuant to ORS 295.001 to 295.108. The public official may not have on deposit

in any one credit union depository an aggregate sum in excess of the deposit insurance limits established by the National Credit Union Administration. With respect to bank depositories, unless a bank depository has entered into the agreement described in ORS 295.008 (2)(b) and has deposited securities pursuant to ORS 295.015 (1), the public official shall not have on deposit in any one bank depository and its branches a sum in excess of:

(a) The amount insured by the Federal Deposit Insurance Corporation; or

(b) For any amount over the amount insured by the Federal Deposit Insurance Corporation, the amount insured or guaranteed by private deposit insurance or a deposit guaranty bond issued by an insurance company rated A- or better by a recognized insurance rating service.

(2) Compliance with ORS 295.001 to 295.108 relieves the public official of personal liability on account of the loss of the public funds in the custody or control of the public official. [Formerly 295.025]

**Note:** The amendments to 295.002 (formerly 295.025) by section 19, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.002.** (1) Any public official may retain undeposited such reasonable cash working fund as is fixed by the governing body of the political subdivision or public corporation for which the public official acts. Except to the extent of such cash working fund, each public official shall deposit public funds in the custody or control of the public official in one or more depositories currently qualified pursuant to ORS 295.001 to 295.125. The public official may not have on deposit in any one depository bank that is a credit union or federal credit union an aggregate sum in excess of \$100,000. With respect to other depository banks, the public official, without procuring certificates of participation issued by the pool manager of the depository in an amount equal to the excess deposit, shall not have on deposit in any one depository bank and its branches a sum in excess of:

(a) The amount insured by the Federal Deposit Insurance Corporation; or

(b) For any amount over the amount insured by the Federal Deposit Insurance Corporation, the amount insured or guaranteed by private deposit insurance or a deposit guaranty bond issued by an insurance company rated A- or better by a recognized insurance rating service.

(2) Whenever a public official holds a certificate of participation issued by a pool manager in an amount exceeding the amount required by subsection (1) of this section, upon the written request of the depository bank the public official shall surrender it to the pool manager or direct the pool manager in writing to cancel it in whole or in a designated part.

(3) Compliance with ORS 295.001 to 295.125 relieves the public official of personal liability on account of the loss of the public funds in the custody or control of the public official.

**295.004 Conditions for deposit of funds in excess of specified amounts.** (1) A public official may deposit public funds in a bank depository in an amount in excess of the amount allowed in ORS 295.002 without requiring the bank depository to show that it has entered into the agreement described in ORS 295.008 (2)(b) or deposited securities pursuant to ORS 295.015 (1) if the funds are initially deposited into a bank depository in Oregon and the Oregon bank depository participates in a program through which:

(a) The Oregon bank depository arranges for deposit of the funds into one or more certificates of deposit or time deposits issued by other financial institutions in the United States;

(b) Each certificate of deposit or time deposit is fully insured by the Federal Deposit Insurance Corporation;

(c) The Oregon bank depository administers the funds on behalf of the public official; and

(d) Other financial institutions participating in the program place funds into the Oregon depository in an amount at least equal to the amount deposited into the Oregon bank depository by the public official for purposes of the program.

(2) Until the Oregon bank depository places public funds into one or more certificates of deposit or time deposits as provided in subsection (1) of this section, any public funds held by the Oregon bank depository pending such placement that are in excess of the amounts allowed in ORS 295.002 must be collateralized as provided in ORS 295.001 to 295.108 for other public funds deposits.

(3) The provisions of ORS 295.006, 295.013, 295.015, 295.018 and 295.037 do not apply to public funds deposits deposited into a bank depository in Oregon that the bank depository arranges for under the provisions of the program described in this section. The provisions of ORS 294.035 and 295.001 requiring deposit of public funds into depositories that have offices or branches in Oregon do not apply to certificates of deposit or time deposits that an Oregon bank depository arranges for under the provisions of the program described in this section. [Formerly 295.027]

**Note:** The amendments to 295.004 (formerly 295.027) by section 20, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.004.** (1) A public official may deposit public funds in an amount in excess of the amount allowed in ORS 295.002 without procuring a certificate of participation if the funds are initially deposited into a de-

pository in Oregon and the Oregon depository participates in a program through which:

(a) The Oregon depository arranges for deposit of the funds into one or more certificates of deposit or time deposits issued by other financial institutions in the United States;

(b) Each certificate of deposit or time deposit is fully insured by the Federal Deposit Insurance Corporation;

(c) The Oregon depository administers the funds on behalf of the public official; and

(d) Other financial institutions participating in the program place funds into the Oregon depository in an amount at least equal to the amount deposited into the Oregon depository by the public official for purposes of the program.

(2) The provisions of ORS 294.035 and 295.001 requiring deposit of public funds into depositories that have offices or branches in Oregon do not apply to certificates of deposit or time deposits that an Oregon depository arranges for under the provisions of the program described in this section.

(3) As used in this section, "public funds" and "public official" have the meanings given those terms in ORS 295.001.

**295.005** [1967 c.451 §1; 1973 c.157 §4; 1973 c.288 §2; 1973 c.378 §1; 1973 c.797 §426; 1975 c.515 §8; 1981 c.440 §2; 1983 c.104 §3; 1983 c.456 §4; 1985 c.439 §1; 1985 c.565 §51; 1987 c.524 §1; 1989 c.536 §1; 1991 c.352 §6; 1993 c.74 §1; 1993 c.229 §23; 1993 c.318 §12; 1997 c.631 §447; 1999 c.311 §1; 1999 c.412 §3; 2003 c.195 §17; 2003 c.405 §2; 2005 c.443 §§32,32a; 2007 c.783 §123; 2007 c.871 §15a; renumbered 295.001 in 2007]

**295.006 Bank depository and public official filings with State Treasurer; rules.** (1) Each bank depository shall keep on file with the State Treasurer the name and address of its custodian bank.

(2) Each public official shall keep on file with the State Treasurer the names, addresses and such other information as the State Treasurer shall prescribe by rule of each depository in which the public official deposits public funds. [Formerly 295.055]

**Note:** The amendments to 295.006 (formerly 295.055) by section 22, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.006.** Each depository bank shall keep on file with the State Treasurer the names and addresses of each of its custodian banks and pool managers.

**295.008 Conditions for acting as custodian or bank depository.** (1)(a) An insured institution or trust company may not be a custodian bank under ORS 295.001 to 295.108, unless it certifies in writing to the State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the Department of Consumer and Business Services.

(b) The State Treasurer may approve one or more insured institutions or trust companies to serve as custodians for bank depositories. The State Treasurer shall

promptly notify all bank depositories of the approval of an insured institution or trust company to serve as a custodian.

(2) An insured institution or trust company may not be a bank depository under ORS 295.001 to 295.108, unless it:

(a) Certifies in writing to the State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the Department of Consumer and Business Services;

(b) Except as provided in subsection (4) of this section, enters into a pledge agreement; and

(c) Complies with subsection (3) of this section.

(3) After July 1, 2008, any insured institution or trust company that is not acting as a bank depository on July 1, 2008, and that wishes to become a bank depository shall file with the State Treasurer an initial written report signed or authenticated by an officer of the insured institution or trust company setting forth, as of the date the insured institution or trust company intends to commence acting as a bank depository:

(a) The estimated total amount of public funds that will be on deposit with the insured institution or trust company;

(b) The estimated net worth of the insured institution or trust company;

(c) The amount and nature of the collateral that will be deposited with its custodian to collateralize the public funds deposits; and

(d) The identity of its custodian.

(4) An insured institution or trust company may be a bank depository under ORS 295.001 to 295.108 without entering into a pledge agreement or complying with subsection (3) of this section if the insured institution or trust company does not hold any funds on deposit for a public official that exceed the limits specified in ORS 295.002 for that type of depository. The provisions of ORS 295.006, 295.013, 295.015, 295.018, 295.037 and 295.061 do not apply to an insured institution or trust company that is a bank depository under this subsection. [2005 c.112 §3; 2007 c.871 §16]

**Note:** The amendments to 295.008 by section 16, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.008.** (1)(a) An insured institution or trust company described in ORS 295.001 (2)(c) may not be a custodian bank under ORS 295.001 to 295.125, unless it certifies in writing to the State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the Department of Consumer and Business Services.

(b) With the approval of the State Treasurer, a depository bank may be a custodian bank with respect to its own securities.

(2) An insured institution or trust company described in ORS 295.001 (4) may not be a depository bank under ORS 295.001 to 295.125, unless it:

(a) Certifies in writing to the State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the Department of Consumer and Business Services; and

(b) Except as provided in subsection (3) of this section, enters into a written agreement with the State Treasurer and a custodian that pledges the securities deposited by the insured institution or trust company with the custodian as collateral for deposits of public funds held by the insured institution or trust company. The agreement must be approved by the board of directors or loan committee of the insured institution or trust company and shall be continuously maintained as a written record of the insured institution or trust company.

(3) An insured institution or trust company described in ORS 295.001 (4) may be a depository bank under ORS 295.001 to 295.125 without entering into the agreement described in subsection (2) of this section if the insured institution or trust company does not hold any funds on deposit for a public official that exceed the limits specified in ORS 295.002 for that type of depository. The provisions of ORS 295.006, 295.013, 295.015, 295.018, 295.045, 295.065, 295.105 and 295.185 do not apply to an insured institution or trust company that is a depository bank under this subsection.

(4) An insured institution or trust company may not be a pool manager with respect to securities that it deposits with its custodians as collateral for the security of public fund deposits, and an insured institution or trust company may not be a pool manager unless it certifies in writing to the State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the Department of Consumer and Business Services.

**Note:** Section 33, chapter 871, Oregon Laws 2007, provides:

**Sec. 33.** On or before July 1, 2008, each insured institution and trust company that wishes to act as a bank depository under ORS 295.005 to 295.165 [renumbered 295.001 to 295.108] from and after July 1, 2008, shall file with the State Treasurer an initial written report signed or authenticated by an officer of the insured institution or trust company, together with an executed copy of its pledge agreement. The report shall set forth:

(1) The estimated total amount of public funds that will be on deposit with the insured institution or trust company as of July 1, 2008;

(2) The estimated net worth of the insured institution or trust company on July 1, 2008;

(3) The amount and nature of the collateral that will be deposited with its custodian to collateralize the public funds deposits; and

(4) The identity of its custodian. [2007 c.871 §33]

**295.010** [Amended by 1953 c.352 §3; 1957 c.172 §1; 1965 c.169 §1; repealed by 1967 c.451 §32]

**295.011** [2005 c.112 §4; 2005 c.443 §32c; 2007 c.783 §124; renumbered 295.101 in 2007]

**295.013 Custodian's receipt; duties of custodian.** (1) Upon receipt of securities from the bank depository, the custodian bank shall issue to the State Treasurer, with a copy to the bank depository, a custodian's receipt describing the securities.

(2) Each custodian shall:

(a) Maintain an accurate inventory of the securities of each bank depository described in the custodian's receipts issued by the custodian to the State Treasurer, and adjust the inventory to reflect withdrawals and substitutions of securities previously inventoried.

(b) Appraise the value of the securities added to and withdrawn from the inventory of the bank depository, and appraise the value of the entire inventory of the bank depository on the last day of each month and at such other times as the State Treasurer directs.

(c) Provide a monthly report to the State Treasurer listing the securities pledged by each bank depository and setting forth the value of each security and of the entire inventory of securities pledged by the bank depository.

(d) Notify a bank depository in writing whenever the value of the securities held by the custodian for the bank depository is less than:

(A) For a bank depository that is subject to increased collateral requirements under ORS 295.018, 110 percent of the greater of:

(i) All public funds held by the bank depository; or

(ii) The average of the balances of public funds held by the bank depository, as shown on the last four immediately preceding treasurer reports; or

(B) For a bank depository that is not subject to increased collateral requirements under ORS 295.018, the maximum liability for the bank depository.

(e) Notify the State Treasurer in writing if a bank depository fails to increase the value of its securities within five business days after receipt of notice under paragraph (d) of this subsection.

(f) Notify the State Treasurer in writing if a bank depository increases the value of its securities to an adequate amount after receipt of notice under paragraph (d) of this subsection.

(g) Notify the State Treasurer whenever a bond in the inventory of a bank depository no longer meets the rating requirements described in ORS 295.001 (17)(c) or (d). [Formerly 295.035]

**Note:** The amendments to 295.013 (formerly 295.035) by section 21, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.013.** Upon receipt of securities from the depository bank, the custodian bank shall issue to the pool



manager designated by the depository a custodian's receipt describing the securities.

**295.015 Maintenance of securities by bank depository.** Except as provided in ORS 295.018:

(1)(a) Each bank depository throughout the period of its possession of public fund deposits in excess of the amounts insured or guaranteed as described in ORS 295.002 (1)(a) and (b) shall maintain on deposit with its custodian, at its own expense, securities having a value at least equal to its maximum liability and as otherwise prescribed in ORS 295.001 to 295.108. Such collateral shall be deposited with the bank depository's custodian and shall be clearly designated as security for the benefit of depositors of public funds under ORS 295.001 to 295.108.

(b) For purposes of this section, when pledged as collateral for public funds deposits, loans described in ORS 295.001 (17)(f) shall be discounted to 75 percent of the unpaid principal balance owing on the loan from time to time, or to a lower value determined by the State Treasurer from time to time.

(c) When a bond anticipation note is pledged as collateral for public funds deposits, if there is no readily determinable market value for the note, it shall be discounted to 75 percent of the unpaid principal balance owing on the note from time to time, or to a lower value determined by the State Treasurer from time to time.

(2) The bank depository may deposit other eligible securities with its custodian and withdraw from deposit securities theretofore pledged to secure deposits of public funds, if the remaining securities have a value not less than its maximum liability. The State Treasurer shall execute such releases and surrender such custodian's receipts as are appropriate to effect substitutions and withdrawals of matured and excess pledged securities.

(3) If a bank depository's maximum liability increases because it ceases to be a well capitalized bank depository or because it ceases to be an adequately capitalized bank depository, within five business days after the date on which the bank depository's maximum liability increases, the bank depository shall:

(a) Notify its custodian and the State Treasurer in writing that the bank depository's maximum liability has increased, setting forth the bank depository's new maximum liability; and

(b) Tender to its custodian additional securities having sufficient value to increase the total value of its securities pledged as collateral for public funds deposits to the

new maximum liability of the bank depository.

(4) If a bank depository's maximum liability decreases because it moves from being an undercapitalized bank depository to being a well capitalized bank depository or an adequately capitalized bank depository, or because it moves from being an adequately capitalized bank depository to a well capitalized bank depository, the bank depository may:

(a) Notify its custodian and the State Treasurer in writing that the bank depository's maximum liability has decreased, setting forth the bank depository's new maximum liability; and

(b) With the written approval of the State Treasurer, withdraw from its custodian any securities that exceed the bank depository's new maximum liability.

(5) The State Treasurer shall act upon requests for releases and withdrawals of securities under subsections (2) and (4)(b) of this section within three business days after the receipt of each request. [1967 c.451 §2; 1975 c.515 §3; 2007 c.871 §17]

**Note:** The amendments to 295.015 by section 17, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.015.** Except as provided in ORS 295.018:

(1) Each depository throughout the period of its possession of public fund deposits shall maintain on deposit with its custodians, at its own expense, securities having a value not less than 25 percent of the certificates of participation issued by its pool manager.

(2) The depository may deposit other eligible securities with its custodian and withdraw from deposit securities theretofore pledged to secure deposits of public funds, if the remaining securities have a value not less than 25 percent of outstanding certificates of participation of the pool manager. The pool manager shall execute such releases and surrender such custodian's receipts as are appropriate to effect substitutions and withdrawals of excess pledged securities.

**295.018 Increase in required collateral of bank depository; notifications; failure to increase collateral.** (1) The State Treasurer may require any bank depository during

any period when it has in its possession public fund deposits to maintain on deposit with its custodians securities having a value not less than 110 percent of the greater of:

(a) All public funds held by the bank depository; or

(b) The average of the balances of public funds held by the bank depository, as shown on the last four immediately preceding treasurer reports.

(2) An increase in collateral under subsection (1) of this section shall be ordered

upon the advice of the Director of the Department of Consumer and Business Services. If the bank depository is a national bank or a federally chartered savings bank or savings and loan association, in giving advice to the State Treasurer the director may rely exclusively on information provided to the director by federal regulatory agencies and by the association on forms prescribed by the director. As a condition of being analyzed and reviewed by the director, a federal association shall agree and consent to provide the director with accurate, pertinent and timely information.

(3) Failure of the director to inform the State Treasurer of the condition of any bank depository does not give any public depositor any right or impose any liability on the director. The State Treasurer shall not be liable to any public depositor or to any bank depository for increasing or not increasing the collateral requirement as authorized in subsection (1) of this section.

(4) Any bank depository notified by the State Treasurer of the increased collateral requirement shall comply with the order within five business days by increasing the collateral in the same manner as required for the initial deposit of collateral in ORS 295.015 and, within the same five days, shall notify the State Treasurer of its compliance by supplying copies of the custodian's receipts for, or statement of activity showing, the increased collateral.

(5)(a) If the State Treasurer does not receive the notice required in subsection (4) of this section within the required five business days, the State Treasurer shall immediately notify the director of the failure and shall send notice to all public officials served by that bank depository of its failure to comply.

(b) If, after giving notice as required by paragraph (a) of this subsection, the State Treasurer receives notice that the bank depository is in compliance with the increased collateral requirements, the treasurer shall notify the public officials served by the bank depository that the bank depository is once again in compliance.

(6) A bank depository that does not comply with subsection (4) of this section shall accept no further public funds deposits that are not insured by the Federal Deposit Insurance Corporation.

(7) The names of financial institutions contained in records received or compiled by the State Treasurer pursuant to the provisions of this section shall be exempt from public disclosure unless the public interest requires disclosure in the particular instance. [1975 c.515 §2; 1981 c.440 §1; 1985 c.762 §182; 1987 c.373 §§28a,28b; 1987 c.554 §1; 1989 c.171 §41; 1991 c.327 §1; 2007 c.871 §18]

**Note:** The amendments to 295.018 by section 18, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.018.** (1) The State Treasurer may require any depository bank during any period when it has in its possession public fund deposits to maintain on deposit with its custodians securities having a value not less than 110 percent of the certificates of participation issued by its pool manager. The increase in collateral shall be ordered upon the advice of the Director of the Department of Consumer and Business Services. If the depository bank is a federally chartered savings and loan association, in giving its advice to the State Treasurer the director may rely exclusively on information provided to the director by federal regulatory agencies and by the association on forms prescribed by the director; as a condition of being analyzed and reviewed by the director, a federal association shall agree and consent to provide the director with accurate, pertinent and timely information.

(2) Failure of the director to inform the State Treasurer of the condition of any depository does not give any public depositor any right or impose any liability on the director. The State Treasurer shall not be liable to any public depositor or to any depository bank for increasing or not increasing the collateral requirement as authorized in subsection (1) of this section.

(3) Any depository bank notified by the State Treasurer of the increased collateral requirement shall comply with the order within 10 business days by increasing the collateral in the same manner as required for the initial deposit of collateral in ORS 295.015. The bank shall notify the State Treasurer and the pool manager of its compliance by supplying copies of the custodian's receipts for the increased collateral.

(4) If any depository bank notified by the State Treasurer of an increased collateral requirement fails to notify the State Treasurer of compliance therewith within 10 business days, the State Treasurer shall immediately notify the director of the failure and shall send notice to the pool manager and all public depositors served by that depository bank of its failure to comply.

(5) A depository bank described in subsection (4) of this section shall accept no further public deposits.

(6) Financial institutions named in records received or compiled by the State Treasurer pursuant to the provisions of this section shall be exempt from public disclosure unless the public interest requires disclosure in the particular instance.

**295.020** [Repealed by 1967 c.451 §32]

**295.022 Collateral not required for deferred compensation funds.** Notwithstanding any other provision of this chapter, when a bank, mutual savings bank or savings and loan association receives moneys of the Deferred Compensation Fund established under ORS 243.411 from the state for deposit or investment, the institution shall not have to maintain the collateral required under this chapter for those deferred compensation moneys. [1977 c.721 §15; 1997 c.179 §27]

**295.025** [1967 c.451 §3; 1973 c.288 §3; 1999 c.48 §1; 2003 c.405 §6; 2007 c.871 §19; renumbered 295.002 in 2007]

**295.027** [2005 c.58 §1; 2007 c.871 §20; renumbered 295.004 in 2007]

**295.030** [Repealed by 1967 c.451 §32]

**295.031 Notice to public officials regarding adequacy of collateral.** (1) Within five business days after the State Treasurer receives notice from a custodian pursuant to ORS 295.013 (2)(e) indicating that a bank depository has failed to pledge adequate collateral with its custodian, the treasurer shall send written notice of the failure to each public official who has public funds on deposit in the bank depository with respect to which the notice under ORS 295.013 (2)(e) was given.

(2) Within five business days after the State Treasurer receives notice from a custodian pursuant to ORS 295.013 (2)(f) indicating that a bank depository has once again pledged adequate collateral with its custodian, the treasurer shall send written notice to each public official who was notified under subsection (1) of this section stating that the bank depository once again has adequate collateral. [2007 c.871 §2]

**Note:** ORS 295.031, 295.034, 295.037, 295.041, 295.046, 295.048, 295.053, 295.056, 295.061, 295.071, 295.073, 295.106 and 295.108 become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007.

**295.034 Withdrawal of inadequately collateralized funds.** (1) Within 20 business days after a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (5)(a) or 295.031 (1), the public official shall withdraw from the bank depository to which the notice applies all public funds deposits except those deposits that are insured by the Federal Deposit Insurance Corporation.

(2) If a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (5)(a) or 295.031 (1), beginning 20 business days after the public official receives the notice, the public official may not deposit into the bank depository to which the notice applies any public funds deposits if, as a result of such a deposit, the total public funds of the public official on deposit with the bank depository exceed the deposit insurance limit of the Federal Deposit Insurance Corporation. The prohibition on deposits continues until the public official receives notice under ORS 295.018 (5)(b) or 295.031 (2) indicating that the bank depository is in compliance with ORS 295.013 or 295.018, as applicable.

(3) Except as required by any applicable law or regulation, a bank depository may not impose any early withdrawal penalty or any forfeiture of interest with respect to a withdrawal made by a public official pursuant to this section. [2007 c.871 §3]

**Note:** See note under 295.031.

**295.035** [1967 c.451 §4; 2007 c.871 §21; renumbered 295.013 in 2007]

**295.037 Distribution of collateral after loss in bank depository; assessments.** (1) The deposit of securities by a bank depository with its custodian pursuant to ORS 295.001 to 295.108 constitutes consent by the bank depository to the disposition of the securities in accordance with this section.

(2) When a loss has occurred in a bank depository, the bank depository shall as soon as possible make payment to the proper public officials of all funds subject to the loss, pursuant to the following procedures:

(a) The Director of the Department of Consumer and Business Services or the receiver shall, within 20 days after the issuance of a restraining order or taking possession of any bank depository, ascertain the amount of public funds on deposit in the bank depository as disclosed by its records and the amount of the public funds covered by deposit insurance and certify the amounts to the State Treasurer and to each public official who has public funds on deposit in the bank depository.

(b) Each public official who has public funds on deposit in the bank depository shall, within 10 days after receipt of the certification from the Director of the Department of Consumer and Business Services or the receiver, furnish to the State Treasurer verified statements of the public funds that the public official has on deposit in the bank depository.

(3) Upon receipt of the certification from the Director of the Department of Consumer and Business Services or the receiver and the verified statements from the public officials who have public funds on deposit in the bank depository, the State Treasurer shall ascertain and fix the amount of public funds on deposit in the bank depository, plus interest to the date the funds are distributed to the public official at the rate the bank depository agreed to pay on the funds, minus any amount covered by deposit insurance.

(4) After making the calculation described in subsection (3) of this section, the State Treasurer shall assess the net amount of public funds against all bank depositories, as follows:

(a) First, against the bank depository that suffered the loss, to the extent of the full value of its collateral deposited with its custodian pursuant to ORS 295.001 to 295.108; and

(b) Second, against the collateral of all other bank depositories, on a proportionate basis determined as provided in subsection (5) of this section.

(5) For purposes of subsection (4) of this section, the proportionate share of each of the other bank depositories shall be determined by:

(a) Averaging the amounts of the total public funds deposits reported on the bank depository's last four treasurer reports;

(b) Averaging the total amounts of the total public funds deposits reported on the last four treasurer reports of all of the bank depositories; and

(c) Dividing the result of the calculation performed under paragraph (a) of this subsection by the result of the calculation performed under paragraph (b) of this subsection.

(6) Notwithstanding the assessment provisions of subsection (4) of this section, the State Treasurer shall assess the net amount of public funds deposits of a public official only against the bank depository that suffered the loss, and not against the collateral of other bank depositories, if the public official:

(a) Was given appropriate notice about the bank depository by the State Treasurer under ORS 295.018 (5)(a) or 295.031 (1); and

(b) The public official did not comply with ORS 295.034.

(7) Assessments made by the State Treasurer are payable on the fifth business day following demand. If any bank depository fails to pay its assessment, the State Treasurer shall take possession of the securities segregated as collateral by the bank depository and liquidate the securities for the purpose of paying the assessment.

(8) The State Treasurer shall distribute the net proceeds of the assessments and of any liquidated collateral, to the extent that they do not exceed the total net amount of public funds deposits and accrued interest claimed by the public officials, among the public officials entitled to the proceeds in proportion to the public officials' respective claims.

(9) If the net proceeds of the assessments and of any liquidated collateral are inadequate, after all other available sources are applied, to meet the total claims of the public officials entitled to the proceeds, the public officials may make claims against the closed bank depository as general creditors.

(10) The prohibition on transfers of assets set forth in ORS 711.410 does not apply to assessments, payments, transfers or sales of securities made pursuant to this section. [2007 c.871 §4]

**Note:** See note under 295.031.

**295.040** [Amended by 1959 c.330 §1; 1963 c.128 §1; 1965 c.629 §1; repealed by 1967 c.451 §32]

**295.041 Subrogation rights of State Treasurer.** Upon the distribution of the proceeds of assessments and liquidated collateral pursuant to ORS 295.037 by the State Treasurer to any public official, the State Treasurer shall be subrogated to all of the right, title and interest of the public official against the closed bank depository, and shall share in any distribution of its assets ratably with other depositors. Any sums received from any distribution shall be paid to the public officials to the extent of any unpaid net deposit liability and the balance remaining shall be paid to the bank depositories against which the assessments were made, pro rata in proportion to the assessments actually paid by each bank depository. However, the closed bank depository may not share in any distribution of the balance remaining. If the State Treasurer incurs expenses in enforcing the treasurer's rights under this section, the expenses may be charged as provided in ORS 295.106. The State Treasurer shall submit a claim for expenses to the bank depository, and if the charges are thereafter paid to the treasurer, they shall be treated as a liquidation expense of the closed bank depository. [2007 c.871 §6]

**Note:** See note under 295.031.

**295.045** [1967 c.451 §5; repealed by 2007 c.871 §35]

**Note:** 295.045 is repealed July 1, 2008. See section 35, chapter 871, Oregon Laws 2007, and section 36, chapter 871, Oregon Laws 2007, as amended by section 39, chapter 871, Oregon Laws 2007. 295.045 is set forth for the user's convenience.

**295.045 Designation of pool managers; procedure for changing managers.** Each depository bank shall designate one or more pool managers as provided in ORS 295.001 to 295.125; but it shall designate only one pool manager to function with respect to the public fund deposits and the security therefor of a single public official. If the depository elects to change pool managers, the public official shall surrender certificates of participation issued by the former pool manager in exchange for certificates of like amount issued by the successor pool manager, and the former pool manager shall cause the custodian to deliver to the successor pool manager custodian's receipts for security no longer required to support its outstanding certificates of participation. Such transactions may be arranged by escrows or otherwise, as the parties agree.

**295.046 Limitation on depository acceptance of public funds from single public official; exception.** (1) A bank depository may not accept a deposit of public funds if the deposit would cause the aggregate of public funds deposits made by any one public official in the bank depository to exceed at any time the net worth of the bank depository. If a bank depository's net worth is reduced, the bank depository may allow public funds on deposit in excess of the reduced net worth to remain if the bank depository deposits with its custodian eligible securities valued at market value in an amount at least equal to the amount of the excess public funds deposits. If the additional securities

required by this section are not deposited with the custodian, the bank depository shall permit the public official to withdraw deposits prior to maturity, including accrued interest, in accordance with applicable statutes and governmental regulations.

(2) The limitations of subsection (1) of this section do not apply to public funds deposits held by a bank depository in a certificate of deposit or time deposit under the program described in ORS 295.004. [2007 c.871 §10]

**Note:** See note under 295.031.

**295.048 Limitations on aggregate public funds deposits; notice; exceptions.** (1) Notwithstanding ORS 295.046, a bank depository may not permit the aggregate of public funds deposits on deposit with the bank depository from all public officials to exceed at any time:

(a) 100 percent of the value of the bank depository's net worth, if the bank depository is an undercapitalized bank depository;

(b) 150 percent of the value of the bank depository's net worth, if the bank depository is an adequately capitalized bank depository;

(c) 200 percent of the value of the bank depository's net worth, if the bank depository is a well capitalized bank depository; or

(d) 30 percent of the total aggregate public funds deposits of all public officials in all bank depositories as reported in the most recent notice received by the bank depository from the State Treasurer.

(2) The State Treasurer shall notify each bank depository and its custodian of the total aggregate public funds deposits of all public officials in all bank depositories, based on the most recently submitted treasurer reports. The treasurer shall give the notification required by this subsection by the last day of the month in which bank depositories are required to submit a treasurer report.

(3) If a bank depository's aggregate of public funds deposits exceeds the amount set forth in subsection (1) of this section, the bank depository shall, not later than 20 business days after receipt of notice from the State Treasurer, cease accepting deposits of public funds.

(4) Notwithstanding subsections (1) and (3) of this section:

(a) A bank depository may accept and hold public funds deposits in excess of the limits provided in subsection (1) of this section if the State Treasurer, upon good cause shown, approves the request of the bank depository to hold public funds in excess of the limits provided in subsection (1) of this section for a period not exceeding 90 days.

(b) The limitations of subsection (1) of this section do not apply to public funds deposits held by a bank depository in a program described in ORS 295.004.

(c) A well capitalized bank depository or an adequately capitalized bank depository may accept and hold public funds deposits in excess of the limit provided in subsection (1)(d) of this section if eligible securities are deposited with the bank depository's custodian as collateral in an amount at least equal to the amount of the public funds deposits in excess of the limitation prescribed in subsection (1)(d) of this section. [2007 c.871 §11]

**Note:** See note under 295.031.

**295.050** [Repealed by 1967 c.451 §32]

**295.053 Custodian duties when bank depository ceases holding public funds; securities.** (1) If a bank depository ceases holding public funds deposits, the bank depository's custodian shall continue to hold the pledged securities of the bank depository as collateral pursuant to ORS 295.001 to 295.108. Unless the State Treasurer directs that the bank depository's securities be held for a longer period, the custodian shall hold the bank depository's pledged securities for a period of:

(a) 30 days, in the case of a bank depository that was well capitalized as of the date the bank depository ceased holding any public funds deposits;

(b) 90 days, in the case of a bank depository that was adequately capitalized as of the date the bank depository ceased holding any public funds deposits; or

(c) One year, in the case of a bank depository that was undercapitalized as of the date the bank depository ceased holding any public funds deposits.

(2) If any of a bank depository's pledged securities mature during the periods described in subsection (1) of this section, the bank depository shall pledge substitute securities that shall be held by its custodian until the expiration of the period.

(3) At the end of the applicable holding period, if the bank depository has not, during that period, had on deposit any public funds deposits, the custodian shall tender the bank depository's securities to the bank depository.

(4) Notwithstanding the release of a bank depository's securities pursuant to subsection (3) of this section, the bank depository shall continue to be treated as a bank depository and shall be subject to assessment under ORS 295.037 until one year after the bank depository ceased holding any public funds deposits. If the bank depository no longer has pledged collateral that may be used to pay the assessment, the bank depository shall re-

main liable for payment of the assessment from its other assets. [2007 c.871 §13]

**Note:** See note under 295.031.

**295.055** [1967 c.451 §6; 2007 c.871 §22; renumbered 295.006 in 2007]

**295.056 Liability of public officials for loss of public funds.** When public funds deposits are made in accordance with ORS 295.001 to 295.108, a public official may not be held liable for any loss of public funds that results from the failure or default of any depository without fault or neglect on the public official's part or on the part of the public official's officers or employees. [2007 c.871 §12]

**Note:** See note under 295.031.

**295.060** [Repealed by 1967 c.451 §32]

**295.061 Treasurer reports; filing; notification of changes.** (1) On or before each treasurer report due date, each bank depository that has in its possession public funds deposits of one or more public officials that exceed the limits specified in ORS 295.002 shall file its treasurer report with its custodian bank and with the State Treasurer.

(2) Each bank depository that files reports with the State Treasurer under subsection (1) of this section shall notify the State Treasurer in writing or by electronic means within 10 business days of:

(a) The date on which the bank depository's net worth is reduced by an amount greater than 10 percent of the amount shown as its net worth on the most recent report submitted pursuant to subsection (1) of this section; or

(b) The date on which the bank depository ceases to be well capitalized and becomes adequately capitalized or undercapitalized, or ceases to be adequately capitalized and becomes undercapitalized.

(3) An undercapitalized bank depository shall report the actual amount of public funds deposits held by it at least weekly to its custodian bank and to the State Treasurer. [2007 c.871 §7]

**Note:** See note under 295.031.

**295.065** [1967 c.451 §7; 1973 c.378 §2; 1975 c.515 §4; repealed by 2007 c.871 §35]

**Note:** 295.065 is repealed July 1, 2008. See section 35, chapter 871, Oregon Laws 2007, and section 36, chapter 871, Oregon Laws 2007, as amended by section 39, chapter 871, Oregon Laws 2007. 295.065 is set forth for the user's convenience.

**295.065 Duties of pool manager.** Each pool manager shall:

(1) Maintain an accurate inventory of the securities of each depository bank described in the custodian's receipts transmitted to it from custodian banks, and adjust the inventory to reflect withdrawals and substitutions of securities previously inventoried.

(2) Appraise the value of the securities added to and withdrawn from the inventory of the depository bank, and appraise the value of the entire inventory of

the depository on October 1 of each year and at such other times as it is directed to do so by the State Treasurer.

(3) Issue certificates of participation to public officials in amounts designated by the depository bank and, upon the direction of the depository bank and the written consent of the public official to whom it is issued, reduce, modify or cancel a certificate.

(4) Notify in writing holders of certificates of participation in the collateral of a depository bank whenever, after 10 days' notice to the depository bank, the value of the securities continues to be less than 25 percent of outstanding certificates.

(5) Notify the State Treasurer of the occurrence whenever a bond in the inventory of a depository bank loses its rating requirement provided in ORS 295.001 (7)(c) and (d).

**295.070** [Repealed by 1967 c.451 §32]

**295.071 Investigation by regulatory bodies other than State Treasurer.** (1) The State Treasurer may request that the Director of the Department of Consumer and Business Services or another state or federal agency with primary regulatory authority over any financial institution that is a bank depository or that applies to become a bank depository investigate and report to the State Treasurer concerning the condition of the financial institution.

(2) The financial institution examined under this section shall pay the expenses of the investigation and report.

(3) In lieu of an investigation and report, the State Treasurer may rely upon information made available to the State Treasurer or the Director of the Department of Consumer and Business Services by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System or any state bank or thrift regulatory agency. [2007 c.871 §8]

**Note:** See note under 295.031.

**295.073 Report to State Treasurer of certain actions by Director of Department of Consumer and Business Services.** The Director of the Department of Consumer and Business Services shall advise the State Treasurer of any action the director takes or directs any bank depository to take that will result in a reduction of greater than 10 percent of the net worth of the bank depository as shown on the most recent treasurer report submitted pursuant to ORS 295.061. [2007 c.871 §9]

**Note:** See note under 295.031.

**295.075** [1965 c.629 §3; repealed by 1967 c.451 §32]

**295.080** [Amended by 1959 c.330 §2; 1963 c.520 §2; 1967 c.335 §33; repealed by 1967 c.451 §32]

**295.081 Time deposits.** (1) Subject to ORS 295.002, 295.015 and 295.018, any depository may offer in writing to accept from the State Treasurer time deposits without limitation in amount or in an aggregate amount

therein stated and to pay interest on the time deposits at rates specified in the offer. The offer shall be a continuing offer until it is modified or withdrawn by notice in writing delivered or mailed by registered or certified mail to the State Treasurer. While the offer continues in effect, the depository is bound to accept upon the terms therein specified time deposits tendered by the State Treasurer.

(2) Any funds deposited by the State Treasurer on a time basis shall be deposited at the highest rate of interest available for the amount and term of the deposit.

(3) The State Treasurer shall establish time deposits so as to make the deposited moneys as productive as possible, and shall exercise the judgment and care which persons of prudence, discretion and intelligence exercise in the management of their own affairs, considering the probable income and the probable safety of the moneys deposited, including the distribution of the deposits among depositories so as to minimize the possibility of loss of moneys. [Formerly 295.115]

**Note:** The amendments to 295.081 (formerly 295.115) by section 23, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.081.** (1) Any depository may offer in writing to accept from the State Treasurer time deposits without limitation in amount or in an aggregate amount therein stated and to pay interest on the time deposits at rates specified in the offer. The offer shall be a continuing offer until it is modified or withdrawn by notice in writing delivered or mailed by registered or certified mail to the State Treasurer. While the offer continues in effect, the depository is bound to accept upon the terms therein specified time deposits tendered by the State Treasurer.

(2) Any funds deposited by the State Treasurer on a time basis shall be deposited at the highest rate of interest available for the amount and term of the deposit.

(3) The State Treasurer shall establish time deposits so as to make the deposited moneys as productive as possible, and shall exercise the judgment and care which persons of prudence, discretion and intelligence exercise in the management of their own affairs, considering the probable income and the probable safety of the moneys deposited, including the distribution of the deposits among depositories so as to minimize the possibility of loss of moneys.

**295.084 Designation of depository; collection for claims due state.** (1) The State Treasurer may designate such banks as are necessary within this state as depositories for the collection of drafts, checks, certificates of deposit and coupons received by the State Treasurer on account of any claim due the state.

(2) The State Treasurer, on receipt of any draft, check or certificate of deposit, on ac-

count of a claim due the state, may place it in a depository for collection. The depository shall collect it without delay and shall notify the State Treasurer when collected. The compensation to be paid by the depository shall be fixed by the State Treasurer upon the best terms obtainable for the state. [Formerly 295.135]

**295.085** [1967 c.451 §8; repealed by 2007 c.871 §35]

**Note:** 295.085 is repealed July 1, 2008. See section 35, chapter 871, Oregon Laws 2007, and section 36, chapter 871, Oregon Laws 2007, as amended by section 39, chapter 871, Oregon Laws 2007. 295.085 (2005 Edition) is set forth for the user's convenience.

**295.085 Requiring special certification of collateral value.** If, in the opinion of the State Treasurer, market conditions so indicate, the State Treasurer may require certification of collateral value in accordance with ORS 295.065 at other times throughout the year. The decision to request a special certification shall be solely at the discretion of the State Treasurer.

**295.087 Department of State Lands to invest proceeds from sales of public lands.** Nothing in ORS 295.001 to 295.108 deprives the Department of State Lands of the power to invest or dispose of the funds derived from the sale of public lands as provided by law. [Formerly 295.145]

**295.090** [Amended by 1959 c.330 §3; repealed by 1967 c.451 §32]

**295.091 Preference in selecting depositories for political subdivisions; apportioning funds; interest.** (1) In selecting banks or trust companies to act as depositories, public officials are not limited to the appointment of banks or trust companies in any particular locality. However, if banks or trust companies are engaged in business at an office or offices within the corporate limits of the political subdivision or public corporation and qualify to receive the funds, such depositories shall be given preference. If there is more than one such local qualifying depository, the depositing public official shall apportion the funds in the hands of the public official to such depositories in a manner that is equitable and in the best interests of the political subdivision or public corporation.

(2) The depositories shall be required to pay to the political subdivision or public corporation upon deposits evidenced by certificates of deposit or deposits that by agreement may not be withdrawn on less than 30 days' notice, interest at such rate or rates as shall be agreed upon between the governing body of the political subdivision or public corporation and the depository.

(3) All interest received on deposits of moneys under this section shall accrue to and become a part of the fund the moneys of which were deposited.

(4) This section does not apply to the State Treasurer. [Formerly 295.155]

**295.093 Depositing moneys with treasurer of political subdivision.** Any public official may deposit moneys coming into the hands of the public official in connection with official duties with the treasurer of the political subdivision or public corporation concerned and obtain a receipt therefor. [Formerly 295.165]

**295.095** [1967 c.451 §9; 1969 c.314 §20; 1973 c.378 §3; 1983 c.456 §7; repealed by 1999 c.311 §8]

**295.100** [Repealed by 1967 c.451 §32]

**295.101 Public funds not subject to ORS 295.001 to 295.108.** (1) The following public funds are not subject to the provisions of ORS 295.001 to 295.108:

(a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on bonds, as defined in ORS 286A.001 and 287A.001, and related costs or securing a borrowing related to an agreement for exchange of interest rates entered into under ORS 286A.110 or 287A.335.

(b) Funds that are invested in authorized investments under provisions of law other than ORS 295.001 to 295.108. Funds invested under ORS 293.701 to 293.820 are invested in authorized investments for purposes of this subsection from the time the funds are transferred by the State Treasurer to a third party under the terms of a contract for investment or administration of the funds that requires such a transfer until the time the funds are returned to the treasurer or paid to another party under the terms of the contract.

(c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or by an investment manager under ORS 293.741.

(2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under ORS 294.035 (3)(d) are subject to the provisions of ORS 295.001 to 295.108. [Formerly 295.011]

**295.105** [1967 c.451 §10; 1973 c.438 §1; 1975 c.515 §5; 1983 c.296 §10; 1985 c.762 §183; 1999 c.311 §2; repealed by 2007 c.871 §35]

**Note:** 295.105 is repealed July 1, 2008. See section 35, chapter 871, Oregon Laws 2007, and section 36, chapter 871, Oregon Laws 2007, as amended by section 39, chapter 871, Oregon Laws 2007. 295.105 is set forth for the user's convenience.

**295.105 Effect of deposit of securities; procedure in case of default of depository bank; rules.** (1) The deposit of securities by a depository bank with its custodian pursuant to ORS 295.001 to 295.125 constitutes consent by the depository to the disposition of the securities in accordance with this section.

(2) When a depository is closed by order of the Director of the Department of Consumer and Business Services or the Comptroller of the Currency, the State Treasurer shall:

(a) Demand and receive from the pool manager the custodian's receipts; and

(b) Demand and receive from the custodian the securities pledged to secure deposits of public funds and liquidate in an orderly manner the securities or such thereof as the State Treasurer may determine advisable at public or private sale and distribute the proceeds as provided in this section.

(3) Each public official shall advise the State Treasurer of the amount of the public official's deposits in the defaulted depository bank, and the State Treasurer shall proceed to determine the total amount of the claims payable out of the collateral of the depository. The claim of a public official for purposes of this section shall be the lesser of:

(a) The amount of the public official's deposits plus interest to the date the funds are distributed to the public official at the rate the depository agreed to pay on the funds reduced by the portion thereof that is insured by the Federal Deposit Insurance Corporation; or

(b) The amount of the public official's certificates of participation plus interest on the public official's deposits to the date the funds are distributed to the public official at the rate the depository agreed to pay on the funds.

(4) The State Treasurer shall distribute the net proceeds of the collateral, to the extent that they do not exceed the total claims, among the public officials entitled thereto in proportion to their respective claims. The State Treasurer shall remit to the depository bank any of its collateral or the proceeds thereof in excess of the amount so distributable to public officials.

(5) If the net proceeds of the collateral are inadequate, after all other available sources are applied, to meet the total claims of the public officials entitled thereto, the public officials may make claims against the depository bank as general creditors.

(6) The State Treasurer, in accordance with ORS chapter 183, shall adopt rules to carry out this section.

**295.106 State Treasurer charges; expenses.** The State Treasurer may charge bank depositories for the reasonable expenses of the State Treasurer in connection with the services, duties and activities of the State Treasurer related to ORS 295.001 to 295.108. The State Treasurer shall deposit all moneys received under this section in the Miscellaneous Receipts Account established in the General Fund for the State Treasurer. Moneys received under this section are continuously appropriated to the State Treasurer for the payment of the reasonable expenses of the State Treasurer in connection with the services, duties and activities of the State Treasurer related to ORS 295.001 to 295.108. A bank depository shall pay to the State Treasurer all fees and other amounts charged under this section or under rules adopted to implement this section. [2007 c.871 §5]

**Note:** See note under 295.031.

**295.108 State Treasurer rules; form of report.** (1) The State Treasurer shall adopt rules implementing the provisions of ORS 295.001 to 295.108.

(2) The State Treasurer shall design the treasurer report required by ORS 295.061. The report shall be designed to minimize the regulatory burden of completing and submitting the report and, to the greatest extent practicable, the form of the report and the



content required in the report shall be consistent with the information required by the bank depository's report of condition and income. [2007 c.871 §14]

**Note:** See note under 295.031.

**295.110** [Amended by 1953 c.352 §3; repealed by 1967 c.451 §32]

**295.115** [1967 c.451 §11; 1989 c.319 §1; 2007 c.871 §23; renumbered 295.081 in 2007]

**295.120** [Amended by 1953 c.352 §3; repealed by 1967 c.451 §32]

**295.125** [1967 c.451 §12b; 1981 c.189 §1; 1989 c.319 §2; repealed by 2007 c.871 §35]

**Note:** 295.125 is repealed July 1, 2008. See section 35, chapter 871, Oregon Laws 2007, and section 36, chapter 871, Oregon Laws 2007, as amended by section 39, chapter 871, Oregon Laws 2007. 295.125 (2005 Edition) is set forth for the user's convenience.

**295.125 Deposits for terms not exceeding two years; interest; retention of sum by State Treasurer to pay current obligations.** (1)(a) The State Treasurer may deposit moneys not required to meet current demands for a term not to exceed two years at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the State Treasurer and any depository bank or banks in the state.

(b) All interest received on deposits of moneys under this subsection shall accrue to and become a part of the General Fund as required by ORS 293.140.

(2)(a) The State Treasurer may deposit moneys of any of the funds mentioned in ORS 293.701 (2), except moneys deposited under subsection (1) of this section, at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the State Treasurer and any depository bank or banks in the state.

(b) Notwithstanding ORS 293.140, all interest received on deposits of moneys under this subsection shall accrue to and become a part of the fund the moneys of which were deposited.

(3) The State Treasurer may retain on hand in the state vault or in a depository, the sum the treasurer considers necessary as a reserve for the purpose of paying the current obligations and appropriations of the state.

**295.130** [Amended by 1953 c.352 §3; repealed by 1967 c.451 §32]

**295.135** [1967 c.451 §13; 1981 c.189 §2; 1991 c.6 §1; renumbered 295.084 in 2007]

**295.140** [Repealed by 1953 c.352 §3]

**295.145** [1967 c.451 §14; renumbered 295.087 in 2007]

**295.150** [Repealed by 1967 c.451 §32]

**295.155** [1967 c.451 §15; 2005 c.22 §225; renumbered 295.091 in 2007]

**295.160** [Repealed by 1967 c.451 §32]

**295.165** [1967 c.451 §16; renumbered 295.093 in 2007]

**295.170** [Repealed by 1967 c.451 §32]

**295.175** [1967 c.451 §30; 1989 c.569 §5; repealed by 2007 c.871 §35]

**Note:** 295.175 is repealed July 1, 2008. See section 35, chapter 871, Oregon Laws 2007, and section 36, chapter 871, Oregon Laws 2007, as amended by section 39, chapter 871, Oregon Laws 2007. 295.175 is set forth for the user's convenience.

**295.175 Expenses of State Treasurer as pool manager; rules.** The expense of the State Treasurer in acting as a pool manager shall be paid to the State

Treasurer by the depository bank using the services as pool manager. The State Treasurer, under rules and regulations to be adopted by the State Treasurer pursuant to ORS chapter 183, shall deposit funds so received and may require advance deposits to be made by any depository bank. The moneys credited pursuant to this section are continuously appropriated for the payment of expenses incurred in the administration of ORS 295.001 to 295.125.

**295.180** [Repealed by 1967 c.451 §32]

**295.185** [1983 c.456 §6; repealed by 2007 c.871 §35]

**Note:** 295.185 is repealed July 1, 2008. See section 35, chapter 871, Oregon Laws 2007, and section 36, chapter 871, Oregon Laws 2007, as amended by section 39, chapter 871, Oregon Laws 2007. 295.185 is set forth for the user's convenience.

**295.185 Maintenance of certain securities as collateral at rate set by State Treasurer.** Notwithstanding the provisions of ORS 295.001 to 295.125, securities described in ORS 295.001 (7)(g) shall be maintained as collateral for public deposits at the value determined by the State Treasurer.

**295.190** [Repealed by 1967 c.451 §32]

**295.195 When deposit in foreign country authorized; effect on collateral.** (1) Notwithstanding any other provision of ORS chapter 295, the Department of Higher Education, with the approval of the State Treasurer, may deposit funds in a financial institution in a foreign country, if the circumstances under which the funds are to be used render it impracticable to keep the funds in a domestic financial institution or if the terms of a grant, gift or contract require that the funds be kept in a foreign country.

(2) Notwithstanding any other provision of this chapter, to the extent estimated to be necessary to fund operations or activities for one biennium of the State of Oregon in a foreign country, the State Treasurer may deposit funds in a financial institution in a foreign country.

(3) When funds are deposited in a financial institution in a foreign country pursuant to subsection (1) or (2) of this section, the institution shall not be required to maintain collateral as provided in ORS 295.015. Reasonable and prudent measures to protect the public funds from loss shall be exercised to the extent permitted under the laws of the foreign country.

(4) The State Treasurer shall report to the Legislative Assembly biennially on the amounts of deposits in foreign countries, and the operation and activities funded by such deposits. The report shall be submitted to the offices of the President of the Senate and the Speaker of the House of Representatives and shall be referred by each of them to appropriate standing committees other than committees concerned with budgets of the State Treasurer or the activity or operation so funded. [1983 c.374 §§1,2; 1989 c.399 §1]

**295.200** [Repealed by 1967 c.451 §32]

**295.205 Accounts in financial institutions outside Oregon; conditions; rules.**

(1) Notwithstanding any other law:

(a) The State Treasurer may establish demand deposit accounts in financial institutions outside this state for the purpose of accepting deposits of funds related to the state investments in the geographical areas respectively serviced by the institutions.

(b) Moneys paid to or collected by a financial institution or other entity under an agreement to provide loan servicing for a state agency, political subdivision or public corporation may be deposited in accounts in financial institutions outside this state for the purpose of:

(A) Accepting payments of loan principal and interest;

(B) Accepting and holding escrow funds;

(C) Accepting and holding funds required to be held in reserve with or on behalf of the state agency, political subdivision or public corporation; or

(D) Collecting and holding any other moneys required by the agreement for loan servicing to be collected or held by the financial institution or other entity prior to remittance to the state agency, political subdivision or public corporation or a third party.

(c) Moneys held by a trustee or escrow agent pursuant to a bond indenture, certificate of participation indenture or escrow agreement with a state agency, political subdivision or public corporation in this state that are public funds, as defined in ORS 295.001, may be deposited in accounts in financial institutions outside this state.

(2) The State Treasurer shall establish the demand deposit accounts described in subsection (1)(a) of this section in accordance with rules adopted pursuant to ORS 183.310 to 183.410 that ensure that reasonable and prudent measures are taken to protect the state investment funds from loss.

(3) When accounts are established for a state agency, political subdivision or public corporation under subsection (1)(b) or (c) of this section, the state agency, political subdivision or public corporation in the agreement to provide loan servicing or the bond indenture, certificate of participation indenture or escrow agreement shall ensure that reasonable and prudent measures are taken to protect the moneys in the accounts from loss.

(4) A public official may not have on deposit in any credit union that is a financial institution outside this state an aggregate sum in excess of the deposit insurance limit

established by the National Credit Union Administration.

(5) As used in this section, the terms “financial institution outside this state” and “public official” have the meanings given those terms in ORS 295.001. [1993 c.69 §1; 1995 c.259 §5; 1997 c.171 §15; 2007 c.871 §24]

**Note:** The amendments to 295.205 by section 24, chapter 871, Oregon Laws 2007, become operative July 1, 2008, and apply to all public funds on deposit on or after July 1, 2008. See sections 36 and 37, chapter 871, Oregon Laws 2007, as amended by sections 39 and 40, chapter 871, Oregon Laws 2007. The text that is operative until July 1, 2008, is set forth for the user's convenience.

**295.205.** (1) Notwithstanding any other law:

(a) The State Treasurer may establish demand deposit accounts in financial institutions outside this state for the purpose of accepting deposits of funds related to the state investments in the geographical areas respectively serviced by the institutions.

(b) Moneys paid to or collected by a financial institution or other entity under an agreement to provide loan servicing for a state agency, political subdivision or public corporation may be deposited in accounts in financial institutions outside this state for the purpose of:

(A) Accepting payments of loan principal and interest;

(B) Accepting and holding escrow funds;

(C) Accepting and holding funds required to be held in reserve with or on behalf of the state agency, political subdivision or public corporation; or

(D) Collecting and holding any other moneys required by the agreement for loan servicing to be collected or held by the financial institution or other entity prior to remittance to the state agency, political subdivision or public corporation or a third party.

(c) Moneys held by a trustee or escrow agent pursuant to a bond indenture, certificate of participation indenture or escrow agreement with a state agency, political subdivision or public corporation in this state that are public funds, as defined in ORS 295.001, may be deposited in accounts in financial institutions outside this state.

(2) The State Treasurer shall establish the demand deposit accounts described in subsection (1)(a) of this section in accordance with rules adopted pursuant to ORS 183.310 to 183.410 that, to the extent practicable, provide that deposits of state investment funds are collateralized and managed in the manner otherwise required for deposits of public funds in the state under ORS 295.001 to 295.125.

(3) When accounts are established for a state agency, political subdivision or public corporation under subsection (1)(b) or (c) of this section, the state agency, political subdivision or public corporation in the agreement to provide loan servicing or the bond indenture, certificate of participation indenture or escrow agreement shall require that:

(a) All moneys deposited in the accounts, to the extent practicable, must be collateralized at the same level and managed in the same manner otherwise required for deposits of public funds in this state under ORS 295.001 to 295.125;

(b) Compliance with the collateralization and management requirements of this subsection be monitored and evidence of compliance that is satisfactory to the state agency, political subdivision or public corporation be periodically supplied to the state agency, political subdivision or public corporation; and

(c) Failure by a financial institution or other entity to maintain deposits collateralized and managed as required by this subsection shall constitute a breach of the applicable loan servicing agreement, bond indenture, certificate of participation indenture or escrow agreement.

**295.210** [Repealed by 1967 c.451 §32]

**295.220** [Repealed by 1967 c.451 §32]

**295.230** [Repealed by 1967 c.451 §32]

**295.240** [Repealed by 1967 c.451 §32]

**295.410** [Repealed by 1967 c.451 §32]

**295.420** [Repealed by 1967 c.451 §32]

**295.430** [Repealed by 1967 c.451 §32]

**295.440** [Amended by 1957 c.171 §1; 1965 c.169 §2; repealed by 1967 c.451 §32]

**295.450** [Repealed by 1967 c.451 §32]

**295.460** [Repealed by 1967 c.451 §32]

**295.470** [Repealed by 1967 c.451 §32]

**295.480** [Repealed by 1967 c.451 §32]

**295.490** [Amended by 1963 c.502 §5; repealed by 1967 c.451 §32]

**295.500** [Repealed by 1967 c.451 §32]

**295.510** [Repealed by 1967 c.451 §32]

**295.520** [Repealed by 1967 c.451 §32]

**295.530** [Repealed by 1967 c.451 §32]

**295.990** [Repealed by 1967 c.451 §32]

**295.991** [1967 c.451 §18; repealed by 1971 c.743 §432]

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## CHAPTER 296

[Reserved for expansion]

