Chapter 295

2011 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) "Closed depository" means a bank depository that is subject to a loss.

(5) "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.

(6) "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.

(7) "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.

(8) "Depository" means a bank depository or a credit union depository.

(9) "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.

(10) "Insured institution" means an insured institution as defined in ORS 706.008.

(11) "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 depository.

(12) "Maximum liability" means a sum equal to 10 percent of the greater of:

(a) All uninsured public funds deposits held by the bank depository as shown on the date of its most recent treasurer report; or

(b) The average of the balances of uninsured public funds deposits on the last two immediately preceding treasurer reports.

(13) "Minimum collateral requirement" for a bank depository on any given date means a sum equal to:

(a) For a well capitalized bank depository that has not been required to increase its collateral pursuant to ORS 295.018, 10 percent of the greater of:

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

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

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

(b) For a well capitalized bank depository that has been required to increase its collateral pursuant to ORS 295.018, the percentage required by the State Treasurer pursuant to ORS 295.018 multiplied by the greater of:

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

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

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

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

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

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

(14) "Net worth" of a bank depository means the total risk-based 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.

(15) "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 uninsured 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.

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

(17) "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.

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

(19) "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 bonds have a long-term rating of AA or better;

(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.

(20) "Treasurer report" means a written report signed or authenticated by an officer of a bank depository that has in its possession uninsured public funds deposits setting forth as of the close of business on a specified date:

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

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

(c) The net worth of the bank depository;

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

(e) The identity of its custodian.

(21) "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.

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

(23) "Undercapitalized" means a bank depository that is classified as undercapitalized, significantly undercapitalized or critically undercapitalized by its primary federal regulatory authority.

(24)(a) "Uninsured public funds" or "uninsured public funds deposits" means public funds deposited in a bank depository that exceed the amounts insured or guaranteed as described in ORS 295.002 (1)(a) and (b).

(b) "Uninsured public funds" or "uninsured public funds deposits" does not include public funds deposited in a certificate of deposit or time deposit under ORS 295.004 (1) or public funds that an Oregon bank depository arranges to deposit into an insured deposit account under ORS 295.004 (2).

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

(26) "Well capitalized" means a bank depository that is classified as well capitalized by its primary federal regulatory authority. [Formerly 295.005; 2009 c.821 §1; 2011 c.477 §3]

Note: The amendments to 295.001 by section 1, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, including amendments by section 4, chapter 477, Oregon Laws 2011, is set forth for the user's convenience.

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

(1) "Adequately capitalized" means a depository that is classified as adequately capitalized by the depository's 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 a day other than a federal or State of Oregon legal holiday or a day other than a day on which offices of the State of Oregon are otherwise authorized by law to remain closed.

(4) "Closed depository" means a depository that is subject to a loss.

(5) "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;

(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; and

(c) The credit union or federal credit union complies with ORS 295.008.

(6) "Custodian" means one of the following institutions that a depository designates for the depository's own account:

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

(b) An insured institution, trust company or credit union 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, if the State Treasurer has approved custodians under ORS 295.008.

(7) "Custodian's receipt" or "receipt" means a document issued by a custodian that describes the securities that a depository deposited with the custodian to secure public fund deposits.

(8) "Depository" means a bank depository or a credit union depository.

(9) "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.

(10) "Insured institution" means an insured institution as defined in ORS 706.008.

(11) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction that:

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

(b) Appoints a receiver for a depository.

(12) "Maximum liability" means a sum equal to 10 percent of the greater of:

(a) All uninsured public funds deposits held by a depository, as shown on the date of the depository's most recent treasurer report; or

(b) The average of the balances of uninsured public funds deposits on the last two immediately preceding treasurer reports.

(13) "Minimum collateral requirement" for a depository on any given date means a sum equal to:

(a) For a well capitalized depository that the State Treasurer has not required to increase the depository's collateral pursuant to ORS 295.018, 10 percent of the greater of:

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

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

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

(b) For a well capitalized depository that the State Treasurer required to increase the depository's collateral pursuant to ORS 295.018, the percentage the State Treasurer required pursuant to ORS 295.018 multiplied by the greater of:

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

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

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

(c) For an adequately capitalized depository or an undercapitalized depository, 110 percent of the greater of:

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

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

(14) "Net worth" means a depository's total risk-based capital, 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.

(15) "Pledge agreement" means a written agreement among an insured institution, trust company or credit union, the State Treasurer and a custodian that pledges the securities the insured institution, trust company or credit union deposits with the custodian as collateral for deposits of uninsured public funds that the insured institution, trust company or credit union holds. The board of directors or loan committee of the insured institution, trust company or credit union must approve the agreement and must continuously maintain the agreement as a written record of the insured institution, trust company or credit union.

(16) "Public funds" or "funds" means funds that a public official has custody of or controls by virtue of office.

(17) "Public official" means an officer or employee of this state or an agency, political subdivision or public or municipal corporation of this state, or a housing authority, that by law is the custodian of or has control of public funds.

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

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

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

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

(c) Bonds of a state of the United States that:

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

(B) Having once been rated in accordance with subparagraph (A) of this paragraph, are ruled to be eligible securities for the purposes of ORS 295.001 to 295.108, notwithstanding the loss of the rating;

(d) Bonds of a county, city, school district, port district or other public body in the United States that are 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 a county, city, school district, port district or other public body that are issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of a county or city within the State of Oregon, if the bonds meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(f) With the permission of the State Treasurer and in accordance with rules the State Treasurer adopts, loans made to a county, city, school district, port district or other public body in the State of Oregon, if the borrower has not defaulted with respect to the payment of principal or interest on any of the borrower's loans within the preceding 10 years or during the period of the borrower's existence if the borrower has existed for less than 10 years;

(g) With the permission of the State Treasurer and in accordance with rules the State Treasurer adopts, bond anticipation notes that an authority issues, sells or assumes 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 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 engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations.

(20) "Treasurer report" means a written report that an officer of a depository that holds uninsured public funds deposits has signed or authenticated and that sets forth as of the close of business on a specified date:

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

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

(c) The net worth of the depository;

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

(e) The identity of the depository's custodian.

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

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

(23) "Undercapitalized" means a depository that the depository's primary federal regulatory authority has classified as undercapitalized, significantly undercapitalized or critically undercapitalized.

(24)(a) "Uninsured public funds" or "uninsured public funds deposits" means public funds deposited in a depository that exceed the amounts insured or guaranteed as described in ORS 295.002 (1)(a) and (b).

(b) "Uninsured public funds" or "uninsured public funds deposits" does not include public funds deposited in a certificate of deposit or time deposit under ORS 295.004 (1) or public funds that an Oregon depository arranges to deposit into an insured deposit account under ORS 295.004 (2).

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

(26) "Well capitalized" means a depository that the depository's primary federal regulatory authority has classified as well capitalized.

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 by section 2, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.002. (1) A 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 the cash working fund, a public official shall deposit public funds in the public official's custody or control in one or more depositories currently qualified pursuant to ORS 295.001 to 295.108. Unless a 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 may not have on deposit in any one depository and branches of the depository a sum in excess of:

(a) The amount insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund; or

(b) For any amount over the amount insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, 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 for the loss of the public funds in the public official's custody or control.

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 a pledge agreement 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) 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 a pledge agreement 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 that meets the following conditions:

(a) On or after the date that the funds are received, the Oregon bank depository:

(A) Arranges for the redeposit of the funds into one or more insured deposit accounts in other financial institutions in the United States; and

(B) Administers the funds on behalf of the public official;

(b) The full amount of the funds redeposited by the Oregon bank depository into deposit accounts in other financial institutions, together with any interest accrued on deposited funds, is insured by the Federal Deposit Insurance Corporation; and

(c) On the same date that the funds are redeposited under this subsection, the Oregon bank depository receives an amount of deposits from customers of other financial institutions that are at least equal to the amount of the funds redeposited by the Oregon bank depository.

(3) 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 or places public funds into insured deposit accounts as provided in subsection (2) of this section, any uninsured public funds held by the Oregon bank depository pending such placement must be collateralized as provided in ORS 295.001 to 295.108 for other uninsured public funds deposits.

(4)(a) 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 programs described in subsections (1) and (2) of this section.

(b) 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 subsection (1) of this section or to public funds that an Oregon bank depository arranges to deposit into insured deposit accounts under subsection (2) of this section. [Formerly 295.027; 2009 c.821 §2; 2011 c.477 §1]

Note: The amendments to 295.004 by section 3, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, including amendments by section 2, chapter 477, Oregon Laws 2011, is set forth for the user's convenience.

295.004. (1) A public official may deposit public funds in a depository in an amount in excess of the amount allowed in ORS 295.002 without requiring the depository to show that the depository entered into a pledge agreement or deposited securities pursuant to ORS 295.015 (1) if the public official deposits the funds into a depository in Oregon and the Oregon depository participates in a program through which:

(a) The Oregon depository arranges to deposit 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 or the National Credit Union Share Insurance Fund;

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

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

(2) A public official may deposit public funds in a depository in an amount in excess of the amount allowed in ORS 295.002 without requiring the depository to show that it has entered into a pledge agreement or deposited securities pursuant to ORS 295.015 (1) if the funds are initially deposited into a depository in Oregon and the Oregon depository participates in a program that meets the following conditions:

(a) On or after the date that the funds are received, the Oregon depository:

(A) Arranges for the redeposit of the funds into one or more insured deposit accounts in other financial institutions in the United States; and

(B) Administers the funds on behalf of the public official;

(b) The full amount of the funds redeposited by the Oregon depository into deposit accounts in other financial institutions, together with any interest accrued on deposited funds, is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund; and

(c) On the same date that the funds are redeposited under this subsection, the Oregon depository receives an amount of deposits from customers of other financial institutions that are at least equal to the amount of the funds redeposited by the Oregon depository.

(3) Until the Oregon depository places public funds into one or more certificates of deposit or time deposits as provided in subsection (1) of this section or places public funds into insured deposit accounts as provided in subsection (2) of this section, any uninsured public funds that the Oregon depository holds pending placement must be collateralized as provided in ORS 295.001 to 295.108 for other uninsured public funds deposits.

(4)(a) The provisions of ORS 295.006, 295.013, 295.015, 295.018, 295.037 and 295.038 do not apply to Oregon depositories that arrange to deposit public funds in accordance with the programs described in subsections (1) and (2) of this section.

(b) The provisions of ORS 294.035 and 295.001 that require public funds to be deposited into depositories that have offices or branches in Oregon do not apply to public funds that an Oregon depository arranges to deposit into certificates of deposit or time deposits under the provisions of the program described in subsection (1) of this section or to public funds that an Oregon depository arranges to deposit into insured deposit accounts under subsection (2) of this section.

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.

(3) If a public official changes a bank depository in which the public official deposits public funds, the public official shall report the information required under subsection (2) of this section or by rule regarding the change to the State Treasurer within three business days after the effective date of the change. [Formerly 295.055; 2009 c.821 §3]

Note: The amendments to 295.006 by section 4, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.006. (1) A depository shall keep on file with the State Treasurer the name and address of the depository's custodian.

(2) A public official shall keep on file with the State Treasurer the name and address of each deposi-

tory in which the public official deposits public funds, together with any other information the State Treasurer may require by rule.

(3) If a public official changes a depository in which the public official deposits public funds, the public official shall report the information regarding the change that is required by rule or required under subsection (2) of this section to the State Treasurer within three business days after the effective date of the change.

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. 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, by the time specified by the Director of the Department of Consumer and Business Services:

(A) The reports required under ORS 714.075 to the director; and

(B) Any other information the director considers necessary to determine whether to advise the State Treasurer to order a bank depository to increase its collateral under ORS 295.018.

(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) Any insured institution or trust company 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 uninsured public funds deposits. 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.

(5) An insured institution or trust company that merges with, acquires all the assets of, acquires ownership of or otherwise becomes a successor entity to a bank depository that has entered into a pledge agreement must execute a new pledge agreement or provide evidence satisfactory to the State Treasurer of the assumption by the successor insured institution or trust company of all of the duties and obligations of the bank depository under the existing pledge agreement. An insured institution or trust company that fails to enter into a pledge agreement or provide evidence of its assumption of the existing pledge agreement within the time specified by the State Treasurer shall be treated as a bank depository holding uninsured public funds that has failed to pledge adequate collateral under ORS 295.031. [2005 c.112 §3; 2007 c.871 §16; 2009 c.821 §4]

Note: The amendments to 295.008 by section 5, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.008. (1)(a) An insured institution, trust company or credit union may not be a custodian under ORS 295.001 to 295.108 unless the insured institution, trust company or credit union certifies in writing to the State Treasurer that the insured institution, trust company or credit union 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, trust companies or credit unions to serve as custodians. The State Treasurer shall promptly notify all depositories of the approval of an insured institution, trust company or credit union to serve as a custodian.

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

(a) Certifies in writing to the State Treasurer that the insured institution, trust company or credit union will furnish to the Director of the Department of Consumer and Business Services by the time the director specifies:

(A) The reports required under ORS 714.075; and

(B) Any other information the director considers necessary to determine whether to advise the State Treasurer to order a depository to increase the depository's collateral under ORS 295.018;

(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) An insured institution, trust company or credit union that intends to become a depository shall file with the State Treasurer an initial written report that an officer of the insured institution, trust company or credit union has signed or authenticated and that sets forth, as of the date the insured institution, trust company or credit union intends to commence acting as a depository:

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

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

(c) The amount and nature of the collateral that the insured institution, trust company or credit union will deposit with a custodian to collateralize the public funds deposits; and

(d) The identity of the custodian.

(4) An insured institution, trust company or credit union may be a 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, trust company or credit union does not hold any uninsured public funds deposits. The provisions of ORS 295.006, 295.013, 295.015, 295.018, 295.037, 295.038 and 295.061 do not apply to an insured institution, trust company or credit union that is a depository under this subsection.

(5) An insured institution, trust company or credit union that merges with, acquires all the assets of, acquires ownership of or otherwise becomes a successor entity to a depository that has entered into a pledge agreement must execute a new pledge agreement or provide evidence satisfactory to the State Treasurer that the successor insured institution, trust company or credit union has assumed all of the depository's duties and obligations under the existing pledge agreement. An insured institution, trust company or credit union that fails to enter into a pledge agreement or provide evidence that the insured institution, trust company or credit union has assumed the existing pledge agreement within the time specified by the State Treasurer shall be treated as a depository that holds uninsured public funds and that has failed to pledge adequate collateral under ORS 295.031.

Note: Sections 29 and 30, chapter 101, Oregon Laws 2010, provide:

Sec. 29. (1) Subject to subsection (2) of this section, sections 12 [295.038], 13 [295.039], 13a [295.009] and 13b [295.012], chapter 101, Oregon Laws 2010, and the amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by sections 1 to 10, 14 to 23 and 25 to 28, chapter 101, Oregon Laws 2010, become operative January 1, 2013.

(2) If the State Treasurer determines that the conditions described in section 13a (1), chapter 101, Oregon Laws 2010, have been satisfied, the State Treasurer shall implement sections 12 and 13b, chapter 101, Oregon Laws 2010, and the amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by sections 1 to 10, 14 to 23 and 25 to 28, chapter 101, Oregon Laws 2010, not later than 180 days after the date the State Treasurer determines that the conditions described in section 13a (1), chapter 101, Oregon Laws 2010, have been satisfied.

(3) The State Treasurer and the Director of the Department of Consumer and Business Services may take any action before January 1, 2013, that is necessary to enable the State Treasurer and the director to exercise, on and after January 1, 2013, all the duties, functions and powers conferred on the State Treasurer and the director by sections 12, 13, 13a and 13b, chapter 101, Oregon Laws 2010, and the amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by sections 1 to 10, 14 to 23 and 25 to 28, chapter 101, Oregon Laws 2010. [2010 c.101 §29; 2011 c.667 §2]

Sec. 30. Sections 12, 13, 13a and 13b of this 2010 Act and the amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by sections 1 to 10, 14 to 23 and 25 to 28 of this 2010 Act apply to public funds on deposit on or after January 1, 2013. [2010 c.101 §30]

295.009 Conditions under which State Treasurer may decline to accept credit union as credit union depository; State Treasurer withdrawal from pledge agreement. (1) The State Treasurer may decline to accept from a credit union the certification and pledge agreement necessary to qualify the credit union as a credit union depository under ORS 295.008 unless:

(a) At the time the credit union submits the certification and pledge agreement, at least four other credit unions have each submitted:

(A) A certification and pledge agreement necessary to qualify as a credit union depository under ORS 295.008; and

(B) A signed statement from a public official that indicates that the public official intends to deposit more than $250,000 of public funds with the credit union if the credit union qualifies as a credit union depository; and

(b) The State Treasurer receives moneys under the provisions of ORS 295.039 or 295.106 that are sufficient to pay for one year the State Treasurer's initial or continuing expenses related to administering ORS 295.038.

(2)(a) The State Treasurer may withdraw from a pledge agreement that the State Treasurer previously accepted from a credit union under ORS 295.008 if fewer than five credit unions are qualified as credit union depositories under ORS 295.001 to 295.108 during any period of 180 days or longer.

(b) Except as provided in ORS 295.008 (4), a credit union that is a party to a pledge agreement from which the State Treasurer withdraws in accordance with paragraph (a) of this subsection does not qualify as a credit union depository under ORS 295.001 to 295.108. Within 10 business days after the State Treasurer notifies the credit union that the State Treasurer has withdrawn from the pledge agreement, the credit union shall re-

turn all uninsured public funds deposits that the credit union holds to the public official that deposited the public funds. [2010 c.101 §13a]

Note: 295.009 becomes operative January 1, 2013, and applies to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010.

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]

295.012 State Treasurer rule setting maximum liability for credit union depositories. For any period of time during which fewer than 10 credit unions are subject to pledge agreements with the State Treasurer and a custodian under ORS 295.008, the State Treasurer, notwithstanding ORS 295.001 (12), by rule may set the maximum liability for a credit union depository at 20 percent of the greater of:

(1) All uninsured public funds deposits the credit union depository holds, as shown on the date of the credit union depository's most recent treasurer's report; or

(2) The average of the balances of all uninsured public funds deposits the credit union depository holds, as shown on the credit union depository's last two immediately preceding treasurer reports. [2010 c.101 §13b]

Note: 295.012 becomes operative January 1, 2013, and applies to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010.

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 within one business day after the custodian determines that the value of the securities held by the custodian for the bank depository is less than the minimum collateral requirement for the bank depository.

(e) Notify the State Treasurer in writing within one business day after the custodian learns that a bank depository failed to increase the value of its securities within the time required under ORS 295.015 (3)(b).

(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 within one business day after the custodian determines that a bond in the inventory of a bank depository no longer meets the rating requirements described in ORS 295.001 (19)(c) or (d). [Formerly 295.035; 2009 c.821 §5]

Note: The amendments to 295.013 by section 6, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.013. (1) When a custodian receives securities from a depository, the custodian shall issue to the State Treasurer, with a copy to the depository, a custodian's receipt that describes the securities.

(2) A custodian shall:

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

(b) Appraise the value of the securities added to and withdrawn from the depository's inventory and appraise the value of the depository's entire inventory 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 that lists the securities each depository has pledged and that sets forth the value of each security and of the entire inventory of securities the depository has pledged.

(d) Notify a depository in writing within one business day after the custodian determines that the value of the securities the custodian holds for the depository is less than the minimum collateral requirement for the depository.

(e) Notify the State Treasurer in writing within one business day after the custodian learns that a depository failed to increase the value of the depository's securities within the time required under ORS 295.015 (3)(b).

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

(g) Notify the State Treasurer within one business day after the custodian determines that a bond in the inventory of a depository no longer meets the rating requirements described in ORS 295.001 (19)(c) or (d).

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 any uninsured public funds deposits shall maintain on deposit with its custodian, at its own expense, securities having a value at least equal to its minimum collateral requirement 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 by the bank depository and the custodian 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 (19)(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 minimum collateral requirement. 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 minimum collateral requirement increases because it ceases to be a well capitalized bank depository as reflected in the bank depository's last treasurer report, call report or other public filing, or if the bank depository receives notice from the bank depository's custodian under ORS 295.013 (2)(d) or the State Treasurer:

(a) Within three business days after the date on which the bank depository's minimum collateral requirement increases, the bank depository shall notify its custodian, the Director of the Department of Consumer and Business Services and the State Treasurer in writing that the bank depository's minimum collateral requirement has increased, setting forth the bank depository's new minimum collateral requirement and the bank depository's plan for increasing its pledged collateral to the minimum collateral requirement; and

(b) Within five business days after the date on which the bank depository's minimum collateral requirement increases, or within a longer period approved by the State Treasurer and the director, the bank depository shall, in accordance with the plan approved by the State Treasurer and the director, 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 minimum collateral requirement of the bank depository.

(4) If a bank depository's minimum collateral requirement decreases because it moves from being an undercapitalized bank depository or an adequately capitalized bank depository to being a well capitalized bank depository, or because the State Treasurer no longer requires the bank depository to pledge additional collateral under ORS 295.018, the bank depository may:

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

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

(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; 2009 c.821 §6]

Note: The amendments to 295.015 by section 7, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.015. Except as provided in ORS 295.018:

(1)(a) A depository throughout the period during which the depository possesses uninsured public funds deposits shall maintain on deposit with the depository's custodian, at the depository's own expense, securities that have a value at least equal to the depository's minimum collateral requirement and as otherwise prescribed in ORS 295.001 to 295.108. The depository shall deposit the collateral with the depository's custodian and the depository and the custodian shall clearly mark the collateral as security for public funds deposited in accordance with 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 (19)(f) must be discounted to 75 percent of the unpaid principal balance owing on the loan from time to time, or to a lower value that the State Treasurer determines from time to time.

(c) A bond anticipation note that is pledged as collateral for public funds deposits and for which there is no readily determinable market value must be discounted to 75 percent of the unpaid principal balance owing on the note from time to time, or to a lower value that the State Treasurer determines from time to time.

(2) A depository may deposit other eligible securities with the depository's custodian and withdraw from deposit securities that the depository pledged to secure deposits of public funds if the remaining securities have a value not less than the depository's minimum collateral requirement. The State Treasurer shall execute releases and surrender custodian's receipts that are appropriate to effect substitutions and withdrawals of matured and excess pledged securities.

(3) If a depository's minimum collateral requirement increases because the depository ceases to be a well capitalized depository as reflected in the depository's last treasurer report, call report or other public filing, or if the depository receives notice from the depository's custodian under ORS 295.013 (2)(d) or from the State Treasurer:

(a) Within three business days after the date on which the depository's minimum collateral requirement increases, the depository shall notify the depository's custodian, the Director of the Department of Consumer and Business Services and the State Treasurer in writing that the depository's minimum collateral requirement has increased, setting forth the depository's new minimum collateral requirement and the depository's plan for increasing the depository's pledged collateral to the minimum collateral requirement; and

(b) Within five business days after the date on which the depository's minimum collateral requirement increases, or within a longer period approved by the State Treasurer and the director, the depository shall, in accordance with the plan approved by the State Treasurer and the director, tender to the depository's custodian additional securities that have a value sufficient to increase the total value of the depository's securities pledged as collateral for public funds deposits to the depository's new minimum collateral requirement.

(4) If a depository's minimum collateral requirement decreases because the depository becomes a well capitalized depository, or because the State Treasurer no longer requires the depository to pledge additional collateral under ORS 295.018, the depository may:

(a) Notify the depository's custodian and the State Treasurer in writing that the depository's minimum collateral requirement has decreased, setting forth the depository's new minimum collateral requirement; and

(b) With the written approval of the State Treasurer, withdraw from the depository's custodian securities that exceed the depository's new minimum collateral requirement.

(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 receiving each request.

295.018 Increase in required collateral of bank depository; notifications; failure to increase collateral. (1)(a) The State Treasurer may require any bank depository during any period when it has in its possession any uninsured public funds deposits to maintain on deposit with its custodians securities having a value not less than 110 percent of the greater of:

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

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

(b) In consultation with the Director of the Department of Consumer and Business Services, the State Treasurer may permit a bank depository to increase its collateral as required under paragraph (a) of this subsection over a period of time specified by the State Treasurer or may require a bank depository to increase its collateral to an amount that is less than the amount specified in paragraph (a) of this subsection.

(2) An increase in collateral under subsection (1) of this section shall be ordered upon the advice of the director. 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 bank, savings bank or association on forms prescribed by the director. As a condition of being analyzed and reviewed by the director, a national bank or a federally chartered savings bank or savings and loan association shall agree and consent to provide the director with accurate, pertinent and timely information.

(3) If the State Treasurer orders a bank depository to increase its collateral under subsection (1) of this section, the State Treasurer shall give notice of the order to the director and the custodian of the bank depository within one business day after issuing the order.

(4) 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.

(5) Any bank depository notified by the State Treasurer of the increased collateral requirement shall:

(a) Within three business days after receiving the notice, submit to the State Treasurer and the director the bank depository's plan for increasing its collateral to the level required by the State Treasurer under subsection (1) of this section; and

(b) Within five business days after receiving approval of its plan submitted under paragraph (a) of this subsection, or within a longer period approved by the State Treas-

urer and the director, increase its collateral to the level required by the State Treasurer under subsection (1) of this section and notify the State Treasurer and the director of its compliance by supplying copies of the custodian's receipts for, or statement of activity showing, the increased collateral.

(6)(a) If the State Treasurer does not receive the notice required in subsection (5)(b) of this section within the applicable period under subsection (5)(b) of this section, the State Treasurer shall immediately send notice to each public official who has notified the State Treasurer that the public official has public funds on deposit in that bank depository of the bank depository's 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 State Treasurer shall notify each public official who was notified under paragraph (a) of this subsection that the bank depository is once again in compliance.

(7) A bank depository that does not comply with subsection (5) of this section may not accept additional uninsured public funds deposits.

(8) The collateralization requirement for a bank depository and the amount of collateral held by a custodian contained in records received or compiled by the State Treasurer is exempt from public disclosure unless the public interest requires disclosure in the particular instance.

(9) The State Treasurer may require a bank depository that is required to increase its collateral under subsection (5) of this section to file the reports required under ORS 295.061 (3). [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; 2009 c.821 §7]

Note: The amendments to 295.018 by section 8, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.018. (1)(a) The State Treasurer may require a depository, during any period when the depository possesses uninsured public funds deposits, to maintain on deposit with the depository's custodians securities that have a value not less than 110 percent of the greater of:

(A) All uninsured public funds the depository holds; or

(B) The average of the balances of uninsured public funds the depository holds, as shown on the last two immediately preceding treasurer reports.

(b) In consultation with the Director of the Department of Consumer and Business Services, the State Treasurer may permit a depository to increase the depository's collateral as required under paragraph (a) of this subsection over a period of time the State Treasurer specifies or may require a depository to increase the depository's collateral to an amount that is less than the amount specified in paragraph (a) of this subsection.

(2) The State Treasurer shall order an increase in collateral under subsection (1) of this section if the director so advises. If the depository is a national bank, a federally chartered savings bank, a savings and loan association or a federal credit union, in giving advice to the State Treasurer the director may rely exclusively on information that the federal regulatory agencies and the bank, savings bank, association or federal credit union provide to the director on forms the director prescribes. As a condition of being analyzed and reviewed by the director, a national bank, a federally chartered savings bank, a savings and loan association or a federal credit union shall agree and consent to provide the director with accurate, pertinent and timely information.

(3) If the State Treasurer orders a depository to increase the depository's collateral under subsection (1) of this section, the State Treasurer shall give notice of the order to the director and the custodian of the depository within one business day after issuing the order.

(4) The director's failure to inform the State Treasurer of the condition of any depository does not give a public depositor any right or impose liability on the director. The State Treasurer is not liable to a public depositor or to a depository for increasing or not increasing the collateral requirement as authorized in subsection (1) of this section.

(5) A depository that the State Treasurer notifies of the increased collateral requirement shall:

(a) Within three business days after receiving the notice, submit to the State Treasurer and the director the depository's plan to increase the depository's collateral to the level the State Treasurer requires under subsection (1) of this section; and

(b) Within five business days after receiving approval of the plan the depository submitted under paragraph (a) of this subsection, or within a longer period approved by the State Treasurer and the director, increase the depository's collateral to the level the State Treasurer requires under subsection (1) of this section and notify the State Treasurer and the director that the depository has complied by supplying copies of the custodian's receipts for, or statement of activity showing, the increased collateral.

(6)(a) If the State Treasurer does not receive the notice required in subsection (5)(b) of this section within the applicable period under subsection (5)(b) of this section, the State Treasurer shall immediately send, to each public official who has notified the State Treasurer that the public official has public funds on deposit in that depository, notice that the depository has failed to comply.

(b) If, after giving notice as required by paragraph (a) of this subsection, the State Treasurer receives notice that the depository has complied with the increased collateral requirements, the State Treasurer shall notify each public official that the State Treasurer notified under paragraph (a) of this subsection that the depository has complied.

(7) A depository that does not comply with subsection (5) of this section may not accept additional uninsured public funds deposits.

(8) Records the State Treasurer receives or compiles that contain the collateralization requirement for a depository and the amount of collateral a custodian holds are exempt from public disclosure unless the public interest requires disclosure in the particular instance.

(9) The State Treasurer may require a depository that must increase the depository's collateral under subsection (5) of this section to file the reports required under ORS 295.061 (3).

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 three business days after the State Treasurer receives notice from a custodian pursuant to ORS 295.013 (2)(e), receives information from the Director of the Department of Consumer and Business Services or other sources under ORS 295.071 or 295.073, or otherwise receives information indicating that a bank depository has failed to pledge adequate collateral with its custodian, the State Treasurer shall send written notice of the failure to each public official who has uninsured public funds on deposit in the bank depository with respect to which the notice was given or the information was received.

(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 State 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; 2009 c.821 §8]

Note: The amendments to 295.031 by section 9, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.031. (1) Within three business days after the State Treasurer receives notice from a custodian pursuant to ORS 295.013 (2)(e), receives information from the Director of the Department of Consumer and Business Services or other sources under ORS 295.071 or 295.073, or otherwise receives information that indicates that a depository has failed to pledge adequate collateral with the depository's custodian, the State Treasurer shall send written notice of the failure to each public official who has uninsured public funds on deposit in the depository that is the subject of the notice from the custodian or of the information the State Treasurer received.

(2) Within five business days after the State Treasurer receives notice from a custodian pursuant to ORS 295.013 (2)(f) that indicates that a depository has pledged adequate collateral with the depository's custodian, the State Treasurer shall send written notice to each public official who was notified under subsection (1) of this section stating that the depository has adequate collateral.

295.034 Withdrawal of inadequately collateralized funds. (1) Within 15 business days after a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a), the public official shall withdraw from the bank depository to which the notice applies all uninsured public funds deposits.

(2) If a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a), beginning 15 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 that, as a result of such a deposit, would be uninsured public funds deposits. The prohibition on deposits continues until the public official receives notice under ORS 295.018 (6)(b), 295.031 (2) or 295.061 (4)(b) indicating that the bank depository is in compliance with ORS 295.013, 295.018 or 295.061, 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; 2009 c.821 §9]

Note: The amendments to 295.034 by section 10, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.034. (1) Within 15 business days after a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a), the public official shall withdraw from the depository to which the notice applies all uninsured public funds deposits.

(2) If a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a), beginning 15 business days after the public official receives the notice, the public official may not deposit into the depository to which the notice applies any public funds that, as a result of the deposit, would be uninsured public funds deposits. The prohibition on deposits continues until the public official receives notice under ORS 295.018 (6)(b), 295.031 (2) or 295.061 (4)(b) indicating that the depository is in compliance with ORS 295.013, 295.018 or 295.061, as applicable.

(3) Except as required by any applicable law or regulation, a depository may not impose an early withdrawal penalty or a forfeiture of interest with respect

to a withdrawal that a public official makes pursuant to this section.

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) Immediately upon occurrence of the loss, the State Treasurer shall take possession of the securities segregated as collateral for uninsured public funds deposits held by the closed depository and begin to liquidate as much of the collateral as the State Treasurer estimates is necessary, based upon the most recent information available to the State Treasurer on the amount of uninsured public funds deposits held by the closed depository, for distribution of the proceeds among public officials entitled to the proceeds as provided in this section.

(b) The Director of the Department of Consumer and Business Services or the receiver for the closed depository 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 or deposit guaranty bonds and certify the amounts to the State Treasurer and to each public official who has public funds on deposit in the bank depository.

(c) Each public official who has uninsured 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 uninsured 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 uninsured 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 or deposit guaranty bonds.

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

(a) First, against the closed depository, to the extent of the full value of the proceeds realized from the liquidation of its collateral by the State Treasurer under subsection (2) of this section, plus the treasurer's estimate of the amount of proceeds expected to be received from the collateral still to be liquidated by the State Treasurer; and

(b) Second, against all of the other bank depositories, on a proportionate basis determined as provided in subsection (5) of this section. The amount assessed against each other bank depository under this paragraph may not exceed the maximum liability of the bank depository.

(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 total amounts of all uninsured public funds deposits reported on the bank depository's last two treasurer reports;

(b) Averaging the aggregate total amounts of all uninsured public funds deposits reported on the last two 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 amount of uninsured public funds deposits of a public official only against the closed depository, and not against other bank depositories, if the public official:

(a) Was given appropriate notice about the closed depository by the State Treasurer under ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a) and did not comply with ORS 295.034; or

(b) Failed to timely comply with the requirements of ORS 295.006 and, as a result of the failure to timely comply, did not receive appropriate notice about the closed depository from the State Treasurer under ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a).

(7) The assessment by the State Treasurer against the closed depository shall be payable immediately from the proceeds of the collateral delivered to the State Treasurer.

Assessments made by the State Treasurer against the other bank depositories 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 and liquidate the securities segregated as collateral for uninsured public funds deposits held by the bank depository or so much of the securities as is needed to pay the bank depository's assessment.

(8) The State Treasurer shall distribute the amounts received by the State Treasurer from the assessments, to the extent that they do not exceed the total amount of uninsured 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 amounts received by the State Treasurer from the assessments are inadequate, after all other available sources are applied, to meet the total claims of the public officials for the amount of their uninsured public funds deposits, the public officials may make claims against the closed depository as general creditors, but not against any bank depository other than the closed depository.

(10)(a) If the final amount of proceeds from the liquidation of collateral received by the State Treasurer from a closed depository exceeds the amount of the assessment against the closed depository under subsection (4)(a) of this section, the State Treasurer shall pay the amount of the excess to the closed depository.

(b) If the final amount of proceeds from the liquidation of collateral received by the State Treasurer from other bank depositories exceeds the amount of the assessment against the other bank depositories under subsection (4)(b) of this section, the State Treasurer shall pay the excess to the other bank depositories in proportion to the amounts paid to the State Treasurer under their assessments.

(c) If the final amount of proceeds from the liquidation of collateral received by the State Treasurer from a bank depository, other than the closed depository, under subsection (7) of this section exceeds the amount of the assessment against the bank depository, the State Treasurer shall pay the excess to the bank depository.

(11) 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; 2009 c.821 §10]

295.038 Distribution of collateral after loss in credit union depository; assessments. (1) A credit union depository's deposit of securities with a custodian under ORS 295.001 to 295.108 constitutes the credit union depository's consent to the disposition of the securities in accordance with this section.

(2) If a loss occurs in a credit union depository, the credit union depository shall, as soon as possible, pay to the proper public officials all funds subject to the loss in accordance with the following procedures:

(a) Immediately after the loss occurs, the State Treasurer shall take possession of securities that the closed depository's custodian has segregated as collateral for uninsured public funds deposits of the closed depository. The State Treasurer shall immediately liquidate as much of the collateral as the State Treasurer estimates is necessary, based on the most recent information available to the State Treasurer concerning the amount of uninsured public funds the credit union depository holds, and distribute the proceeds among public officials entitled to the proceeds as provided in this section.

(b) The Director of the Department of Consumer and Business Services or a receiver shall, within 20 days after issuing a restraining order or taking possession of the credit union depository, ascertain from the credit union depository's records the amount of public funds on deposit in the credit union depository and the amount of public funds that are covered by deposit insurance or deposit guaranty bonds. The director or the receiver shall certify the amounts to the State Treasurer and to each public official who has public funds on deposit in the credit union depository.

(c) Within 10 days after receiving the certification from the director or the receiver, a public official who has public funds on deposit in the credit union depository shall furnish to the State Treasurer verified statements of the public funds that the public official has on deposit in the credit union depository.

(3) When the State Treasurer receives the certification from the director or the receiver and the verified statements from the public officials who have public funds on deposit in the credit union depository, the State Treasurer shall ascertain and fix the amount of public funds on deposit in the credit union depository, plus interest to the date the funds are distributed to the public official at the rate the credit union depository agreed to pay on the funds, minus any amount that deposit insurance or deposit guaranty bonds cover.

(4) After making the calculation described in subsection (3) of this section, the State Treasurer shall assess the amount of

uninsured public funds against all credit union depositories as follows:

(a) First, against the credit union depository that suffered the loss, to the extent of the full value of the proceeds from the State Treasurer's liquidation of the credit union depository's collateral under subsection (2) of this section, plus the State Treasurer's estimate of the amount of proceeds the State Treasurer expects to receive from collateral the State Treasurer has not yet liquidated; and

(b) Second, against all other credit union depositories on a proportionate basis determined as provided in subsection (5) of this section. The amount the State Treasurer assesses against another credit union depository may not exceed the credit union depository's maximum liability.

(5) For purposes of subsection (4) of this section, the State Treasurer shall determine the proportionate share of each of the other credit union depositories by:

(a) Averaging, for each credit union depository, the total amounts of all uninsured public funds deposits the credit union depository reported on the credit union depository's last two treasurer reports;

(b) Averaging the aggregate total amounts of all uninsured public funds deposits all credit union depositories reported on the credit union depositories' last two treasurer reports; and

(c) Dividing the result of the calculation performed under paragraph (a) of this subsection by the results 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 amount of a public official's uninsured public funds deposits only against the closed depository and not against other credit union depositories, if the public official:

(a) Received appropriate notice about the closed depository from the State Treasurer under ORS 295.018 (6)(a) or 295.031 (1) and did not comply with ORS 295.034; or

(b) Failed to timely comply with the requirements of ORS 295.006 and, as a result of failing to timely comply, did not receive appropriate notice about the closed depository from the State Treasurer under ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a).

(7) Assessments the State Treasurer makes against the closed depository are payable immediately from the proceeds of the collateral delivered to the State Treasurer. Assessments the State Treasurer makes against other credit union depositories are payable on the fifth business day following demand. If a credit union depository fails to pay an assessment, the State Treasurer shall take possession of and liquidate the securities the credit union depository segregated as collateral for uninsured public funds deposits that the credit union depository holds, or shall liquidate as much of the securities as is necessary to pay the credit union depository's assessment.

(8) The State Treasurer shall distribute the amounts the State Treasurer receives from the assessments among the public officials entitled to the proceeds in proportion to the public officials' respective claims, to the extent that the proceeds do not exceed the total amount of uninsured public funds deposits that the public officials claim.

(9) If, after all other available sources are applied, the amounts the State Treasurer receives from the assessments are inadequate to meet the total claims of the public officials to uninsured public funds deposits, the public officials may make claims against the closed depository as general creditors, but not against a credit union depository other than the closed depository.

(10)(a) If the final amount of proceeds the State Treasurer receives from the liquidation of collateral from a closed depository exceeds the amount of the assessment against the closed depository under subsection (4)(a) of this section, the State Treasurer shall pay the amount of the excess to the closed depository.

(b) If the final amount of proceeds the State Treasurer receives from the liquidation of collateral from other credit union depositories exceeds the amount of the assessment against the other credit union depositories under subsection (4)(b) of this section, the State Treasurer shall pay the excess to the other credit union depositories in proportion to the amounts the other credit union depositories paid in assessments to the State Treasurer.

(c) If the final amount of proceeds the State Treasurer receives from the liquidation of collateral from a credit union depository other than the closed depository under subsection (7) of this section exceeds the amount of the assessment against the credit union depository, the State Treasurer shall pay the excess to the credit union depository.

(11) The prohibition on transfers of assets set forth in ORS 711.410 does not apply to assessments, payments, transfers or sales of securities made in accordance with this section. [2010 c.101 §12]

Note: 295.038 becomes operative January 1, 2013, and applies to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010.

295.039 State Treasurer acceptance of moneys for purposes of administering ORS 295.038. (1) The State Treasurer may accept moneys from any public or private source, including a credit union or an association of credit unions, for the purpose of paying initial or continuing expenses related to administering the provisions of ORS 295.038.

(2) The State Treasurer shall deposit moneys the State Treasurer receives under this section into the Miscellaneous Receipts Account established for the State Treasurer in the General Fund. Notwithstanding the provisions of ORS 295.106, moneys the State Treasurer receives under this section are continuously appropriated to the State Treasurer for the purpose of paying the State Treasurer's initial or continuing expenses related to administering ORS 295.038. The State Treasurer shall expend the moneys in accordance with the terms and conditions upon which the moneys were made available. [2010 c.101 §13; 2011 c.667 §1]

Note: 295.039 becomes operative January 1, 2013, and applies to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010.

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 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 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 depository. [2007 c.871 §6; 2009 c.821 §11]

Note: The amendments to 295.041 by section 14, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.041. When the State Treasurer distributes the proceeds of assessments and liquidated collateral to a public official under ORS 295.037 or 295.038, the State Treasurer is subrogated to all of the public official's right, title and interest against the closed depository, and shares in any distribution of the depository's assets ratably with other depositors. Sums received from a distribution must be paid to the public official to the extent of any unpaid net deposit liability. The State Treasurer shall pay the remaining balance to the depositories against which the assessments were made, pro rata in proportion to the assessments each depository paid. However, the closed depository may not share in a distribution of the balance remaining. The State Treasurer may charge expenses that the State Treasurer incurs in enforcing the State Treasurer's rights under this section as provided in ORS 295.106. The State Treasurer shall submit a claim for expenses to the depository, and if the charges are thereafter paid to the State Treasurer, they shall be treated as a liquidation expense of the closed depository.

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

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:

(a) Public funds deposits held by a bank depository in a certificate of deposit or time deposit under ORS 295.004 (1); or

(b) Public funds that an Oregon bank depository arranges to deposit into an insured deposit account under ORS 295.004 (2). [2007 c.871 §10; 2009 c.821 §12; 2011 c.477 §5]

Note: The amendments to 295.046 by section 15, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, including amendments by section 6,

chapter 477, Oregon Laws 2011, is set forth for the user's convenience.

295.046. (1) A depository may not accept a deposit of public funds if the deposit would cause the aggregate of public funds deposits that any one public official makes in the depository to exceed at any time the depository's net worth. If a depository's net worth is reduced, the depository may allow public funds on deposit in excess of the reduced net worth to remain if the depository deposits with the depository's 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 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 a depository holds in a certificate of deposit or time deposit under ORS 295.004 (1); or

(b) Public funds that an Oregon depository arranges to deposit into an insured deposit account under ORS 295.004 (2).

295.048 Limitations on aggregate uninsured public funds deposits; notice; exceptions. (1) Notwithstanding ORS 295.046, a bank depository may not permit the aggregate of uninsured 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 uninsured 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 uninsured 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 uninsured public funds deposits exceeds the amount set forth in subsection (1) of this section, the bank depository shall, within three business days after receipt of notice from the State Treasurer, cease accepting deposits of uninsured public funds.

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

(a) A bank depository may accept and hold uninsured 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 uninsured public funds in excess of the limits provided in subsection (1) of this section for a period not exceeding 90 days and eligible securities are deposited with the bank depository's custodian as collateral in an amount at least equal to the amount of the uninsured public funds deposits in excess of the limits provided in subsection (1) of this section. Upon the expiration of the 90-day period, if the bank depository does not comply with the limits specified in subsection (1) of this section, the bank depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of uninsured public funds.

(b) The limits 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 ORS 295.004 (1) or public funds that an Oregon bank depository arranges to deposit into an insured deposit account under ORS 295.004 (2).

(c) A well capitalized bank depository or an adequately capitalized bank depository may accept and hold uninsured 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 uninsured public funds deposits in excess of the limit prescribed in subsection (1)(d) of this section.

(5) If the State Treasurer notifies a bank depository that it must cease accepting deposits of uninsured public funds under subsection (3) or (4) of this section, the State Treasurer may also notify public officials who have deposited uninsured public funds in the bank depository that within 15 business days after the public official receives the notice from the State Treasurer, the public official must withdraw from the bank depository to which the notice applies all uninsured public funds deposits that exceed the limit specified in subsection (1)(d) of this section. A public official who is notified by the State Treasurer under this subsection must begin to withdraw funds as specified in the notice. Except as required by any applicable law or regulation, a bank depository may not impose an early withdrawal penalty or a forfeiture of interest with respect to a withdrawal made pursuant to this subsection. [2007 c.871 §11; 2009 c.821 §13; 2011 c.25 §1; 2011 c.477 §7; 2011 c.667 §3]

Note: The amendments to 295.048 by section 16, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, including amendments by section 2, chapter 25, Oregon Laws 2011, section 8, chapter 477, Oregon Laws 2011, and section 4, chapter 667, Oregon Laws 2011, is set forth for the user's convenience.

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

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

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

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

(d) For a bank depository, 30 percent of the total aggregate uninsured public funds deposits of all public officials in all bank depositories as reported in the most recent notice the bank depository received from the State Treasurer; or

(e) For a credit union depository, 30 percent of the total aggregate uninsured public funds deposits of all public officials in all credit union depositories as reported in the most recent notice the credit union depository received from the State Treasurer.

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

(3) If a depository's aggregate of uninsured public funds deposits exceeds the amount set forth in subsection (1) of this section, the depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of uninsured public funds.

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

(a) A depository may accept and hold uninsured public funds deposits in excess of the limits specified in subsection (1) of this section if the State Treasurer, upon good cause shown, approves the depository's request to hold uninsured public funds in excess of the limits specified in subsection (1) of this section for a period not exceeding 90 days and eligible securities are deposited with the depository's custodian as collateral in an amount at least equal to the amount of the uninsured public funds deposits that exceeds the limits specified in subsection (1) of this section. Upon the expiration of the 90-day period, if the depository does not comply with the limits specified in subsection (1) of this section, the depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of public funds.

(b) The limits specified in subsection (1) of this section do not apply to public funds deposits a depository holds in a certificate of deposit or time deposit under ORS 295.004 (1) or public funds that an Oregon depository arranges to deposit into an insured deposit account under ORS 295.004 (2).

(c) A well capitalized depository or an adequately capitalized depository may accept and hold uninsured public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section if eligible securities are deposited with the depository's custodian as collateral in an amount at least equal to the amount of the uninsured public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section.

(5) If the State Treasurer notifies a depository that it must cease accepting deposits of public funds under subsection (3) or (4) of this section, the State Treasurer may also notify public officials who have deposited public funds in the depository that within 15 business days after the public official receives the notice from the State Treasurer, the public official must withdraw from the depository to which the notice applies all public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section. A public official who is notified by the State Treasurer under this subsection must begin to withdraw funds as specified in the notice. Except as required by any applicable law or regulation, a depository may not impose an early withdrawal penalty or a forfeiture of interest with respect to a withdrawal made pursuant to this subsection.

295.050 [Repealed by 1967 c.451 §32]

295.053 Custodian duties when bank depository ceases holding uninsured public funds; securities. (1) If a bank depository ceases holding uninsured 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 30 days.

(2) If any of a bank depository's pledged securities mature during the period 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 period described in subsection (1) of this section, if the bank depository has not, during that period, held any uninsured public funds deposits, the custodian shall tender the bank depository's securities to the bank depository. [2007 c.871 §13; 2009 c.821 §14]

Note: The amendments to 295.053 by section 17, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.053. (1) If a depository ceases holding uninsured public funds deposits, the depository's custodian shall continue to hold the depository's pledged securities as collateral pursuant to ORS 295.001 to 295.108. Unless the State Treasurer directs that the custodian hold the depository's pledged securities for a longer period, the custodian shall hold the depository's pledged securities for a period of 30 days.

(2) If any of a depository's pledged securities mature during the period described in subsection (1) of this section, the depository shall pledge substitute securities that the depository's custodian shall hold until the period expires.

(3) If a depository has not held uninsured public funds deposits during the period described in subsection (1) of this section, at the end of the period the depository's custodian shall tender the depository's pledged securities to the depository.

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]

295.060 [Repealed by 1967 c.451 §32]

295.061 Treasurer reports; filing; notification of changes; failure to file reports. (1) On or before each treasurer report due date, each bank depository that has in its possession uninsured public funds deposits of one or more public officials 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 three 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 adequately capitalized bank depository or an undercapitalized bank depository shall report the actual amount of uninsured public funds deposits held by it at least weekly to its custodian bank and to the State Treasurer.

(4)(a) If a bank depository fails to file any of the reports or provide any of the notices required under this section or fails to file any of the notices or reports required under ORS 295.018, the State Treasurer shall send a notice to each public official who has uninsured public funds on deposit in the bank depository of the bank depository's failure to comply.

(b) If, after giving notice under paragraph (a) of this subsection, the State Treasurer receives notice that the bank depository has filed the required reports or provided the required notices, the State Treasurer may notify each public official who was notified under paragraph (a) of this subsection that the bank depository is once again in compliance.

(5) If a bank depository fails to comply with this section, the bank depository shall, within three business days after receipt of notice from the State Treasurer, cease accepting deposits of uninsured public funds. [2007 c.871 §7; 2009 c.821 §15]

Note: The amendments to 295.061 by section 18, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.061. (1) On or before the date on which each treasurer report is due, each depository shall file the depository's treasurer report with the depository's custodian and with the State Treasurer.

(2) Each 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 three business days of:

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

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

(3) An adequately capitalized depository or an undercapitalized depository shall report to the depository's custodian and to the State Treasurer at least once each week the actual amount of uninsured public funds deposits the depository holds.

(4)(a) If a depository fails to file the reports or provide the notices required under this section or fails to file the notices or reports required under ORS 295.018, the State Treasurer shall send a notice to each public official who has uninsured public funds on deposit in the depository that the depository failed to comply.

(b) If, after giving notice under paragraph (a) of this subsection, the State Treasurer receives notice that the depository has filed the required reports or provided the required notices, the State Treasurer may notify each public official who was notified under paragraph (a) of this subsection that the depository has complied.

(5) If a depository fails to comply with this section, the depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of uninsured public funds.

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

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: The amendments to 295.071 by section 19, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.071. (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 a financial institution that is a depository or that applies to become a 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 that the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Board of Governors of the Federal Reserve System or a state bank, thrift or credit union regulatory agency makes available to the State Treasurer or to the Director of the Department of Consumer and Business Services.

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 in writing 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; 2009 c.821 §16]

Note: The amendments to 295.073 by section 20, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.073. The Director of the Department of Consumer and Business Services shall advise the State Treasurer in writing of any action the director takes or directs a depository to take that will reduce the depository's net worth by more than 10 percent as shown on the most recent treasurer report submitted pursuant to ORS 295.061.

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 by section 21, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.081. (1) Subject to ORS 295.002, 295.015 and 295.018, a depository may offer in writing to accept from the State Treasurer time deposits in an unlimited amount or in an aggregate amount stated in the offer and to pay interest on the time deposits at rates specified in the offer. The offer shall continue until the depository delivers or mails, by registered or certified mail, notice to the State Treasurer that modifies or withdraws the offer. While the offer continues in effect, the depository must accept in accordance with the terms of the offer time deposits tendered by the State Treasurer.

(2) Funds the State Treasurer deposits on a time basis must 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 that a person of prudence, discretion and intelligence exercises in the management of the person's own affairs, considering the probable income and the probable safety of the moneys deposited and considering 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 account 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]

Note: The amendments to 295.084 by section 22, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.084. The State Treasurer may designate such banks and credit unions within this state as are necessary as depositories for collecting drafts, checks, certificates of deposit and coupons the State Treasurer receives on account of any claim due the state.

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

295.087 [Formerly 295.145; repealed by 2009 c.821 §31]

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]

Note: The amendments to 295.091 by section 23, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.091. (1) A public official need not deposit public funds in a depository in a particular locality, but the public official shall give preference to a depository that is qualified to receive the public funds and that is engaged in business at an office within the corporate limits of the public official's political subdivision or public corporation. If more than one local qualifying depository exists, the public official shall apportion the public funds among the local qualifying depositories in a manner that is equitable and in the best interests of the political subdivision or public corporation.

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

(3) Interest received on deposits of moneys under this section accrues to and becomes a part of the fund the moneys of which were deposited.

(4) This section does not apply to the State Treasurer.

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]

295.097 State agency agreements to use electronic commerce for sale of public property, debt collection or other business; State Treasurer approval. (1) Notwithstanding any provision of ORS 295.001 to 295.108, and subject to subsection (2) of this section, with the written approval of the State Treasurer, a state agency may enter into agreements with third parties to facilitate through the use of electronic commerce the sale of public property, the collection of amounts owed to a state agency or the transaction of other state agency business.

(2) The State Treasurer may approve an agreement under subsection (1) of this section only if the State Treasurer determines that a depository cannot provide, in a cost-effective manner, the service that is the subject of the proposed agreement.

(3) The State Treasurer may establish procedures, standards and related requirements under ORS 293.875 that the State

Treasurer considers necessary to implement this section.

(4) As used in this section, "state agency" means any officer, board, commission, department, division or institution of state government, as that term is defined in ORS 174.111. [2011 c.253 §2]

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.

(d) Funds that are held by a public official and are required by federal law or contractual provisions to be collateralized at 100 percent, if the funds are deposited in an account that is separate from other accounts of the public official in a depository, and the public official and the depository have entered into a written agreement that provides a perfected security interest to the public official in collateral valued at an amount at least equal to the amount of funds in the account in a manner substantially similar to a pledge agreement described in ORS 295.001 (15).

(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; 2011 c.667 §5]

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]

295.106 State Treasurer charges; expenses. The State Treasurer may charge depositories for the State Treasurer's reasonable expenses in connection with the State Treasurer's services, duties and activities under 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 to pay the State Treasurer's reasonable expenses in connection with the State Treasurer's services, duties and activities under ORS 295.001 to 295.108. A depository shall pay to the State Treasurer all fees and other amounts charged under this section or under rules adopted to implement this section. The State Treasurer may withdraw from a pledge agreement with a depository if the depository does not pay the fees and other amounts charged. [2007 c.871 §5; 2010 c.101 §24]

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: The amendments to 295.108 by section 25, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, is set forth for the user's convenience.

295.108. (1) The State Treasurer shall adopt rules to implement the provisions of ORS 295.001 to 295.108.

(2) The State Treasurer shall design the treasurer report required by ORS 295.061 to minimize the regulatory burden of completing and submitting the report and, to the greatest extent practicable, to make the form of the report and the content required in the report consistent with the information required by the depository's report of condition and income.

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]

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]

295.180 [Repealed by 1967 c.451 §32]

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

295.190 [Repealed by 1967 c.451 §32]

295.195 Deposit of funds in foreign country; effect on collateral; report to Legislative Assembly. (1) Notwithstanding any other provision of ORS chapter 295, the Oregon University System, 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; 2009 c.762 §56]

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 26, chapter 101, Oregon Laws 2010, become operative January 1, 2013, and apply to public funds on deposit on or after January 1, 2013. See section 29, chapter 101, Oregon Laws 2010, as amended by section 2, chapter 667, Oregon Laws 2011, and see section 30, chapter 101, Oregon Laws 2010. The text that is operative on and after January 1, 2013, 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 state investments in the geographical areas that the financial institutions serve.

(b) Moneys that a financial institution or other entity receives or collects 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 other moneys the financial institution must collect and hold for loan servicing under the agreement before remitting the moneys to the state agency, political subdivision or public corporation or a third party.

(c) Moneys a trustee or escrow agent holds 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 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) 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.

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]

CHAPTER 296

[Reserved for expansion]