

SECOND REGULAR SESSION

SENATE BILL NO. 635

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PEARCE.

Read 1st time January 10, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5139S.011

AN ACT

To repeal section 30.270, RSMo, and to enact in lieu thereof one new section relating to securities that are pledged for the safekeeping and payment of public funds deposited in banks and financial institutions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 30.270, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 30.270, to read as follows:

30.270. 1. For the security of the moneys deposited by the state treasurer pursuant to the provisions of this chapter, the state treasurer shall, from time to time, submit a list of acceptable securities to be approved by the governor and state auditor if satisfactory to them, and the state treasurer shall require of the selected and approved banks or financial institutions as security for the safekeeping and payment of deposits, securities from the list provided for in this section, which list shall include only securities of the following kind and character, unless it is determined by the state treasurer that the use of such securities as collateral may place state public funds at undue risk:

- (1) Bonds or other obligations of the United States;
- (2) Bonds or other obligations of the state of Missouri including revenue bonds issued by state agencies or by state authorities created by legislative enactment;
- (3) Bonds or other obligations of any city in this state having a population of not less than two thousand;
- (4) Bonds or other obligations of any county in this state;
- (5) Approved registered bonds or other obligations of any school district, including certificates of participation and leasehold revenue bonds, situated in

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 this state;

20 (6) Approved registered bonds or other obligations of any special road
21 district in this state;

22 (7) State bonds or other obligations of any state;

23 (8) Notes, bonds, debentures or other similar obligations issued by the
24 farm credit banks or agricultural credit banks or any other obligations issued
25 pursuant to the provisions of an act of the Congress of the United States known
26 as the Farm Credit Act of 1971, and acts amendatory thereto;

27 (9) [Bonds of the federal home loan banks;

28 (10)] Any bonds or other obligations guaranteed as to payment of
29 principal and interest by the government of the United States or any agency or
30 instrumentality thereof;

31 [(11)] (10) Bonds of any political subdivision established pursuant to the
32 provisions of section 30, article VI of the Constitution of Missouri;

33 [(12)] (11) Tax anticipation notes issued by any county of the first
34 classification;

35 [(13)] (12) A surety bond issued by an insurance company licensed
36 pursuant to the laws of the state of Missouri whose claims-paying ability is rated
37 in the highest category by at least one nationally recognized statistical rating
38 agency. The face amount of such surety bond shall be at least equal to the
39 portion of the deposit to be secured by the surety bond;

40 [(14)] An irrevocable standby letter of credit issued by a Federal Home
41 Loan Bank possessing the highest rating issued by at least one nationally
42 recognized statistical rating agency;

43 (15)] (13) Out-of-state municipal bonds, including certificates of
44 participation and leasehold revenue bonds, provided such bonds are rated in the
45 highest category by at least one nationally recognized statistical rating agency;

46 [(16)] (14) (a) Mortgage securities that are individual loans that include
47 negotiable promissory notes and the first lien deeds of trust securing payment of
48 such notes on one to four family real estate, on commercial real estate, or on farm
49 real estate located in Missouri or states adjacent to Missouri, provided such
50 loans:

51 a. Are underwritten to conform to standards established by the state
52 treasurer, which are substantially similar to standards established by the Federal
53 Home Loan Bank of Des Moines, Iowa, and any of its successors in interest that
54 provide funding for financial institutions in Missouri;

55 b. Are offered by a financial institution in which a senior executive officer
56 certifies under penalty of perjury that such loans are compliant with the

57 requirements of the Federal Home Loan Bank of Des Moines, Iowa, when such
58 loans are pledged by such bank;

59 c. Are offered by a financial institution that is well capitalized; and

60 d. Are not construction loans, are not more than ninety days delinquent,
61 have not been classified as substandard, doubtful, or subject to loss, are one
62 hundred percent owned by the financial institution, are otherwise unencumbered
63 and are not being temporarily warehoused in the financial institution for sale to
64 a third party. Any disqualified mortgage securities shall be removed as collateral
65 within ninety days of disqualification or the state treasurer may disqualify such
66 collateral as collateral for state funds;

67 (b) The state treasurer may promulgate regulations and provide such
68 other forms or agreements to ensure the state maintains a first priority position
69 on the deeds of trust and otherwise protect and preserve state funds. Any rule
70 or portion of a rule, as that term is defined in section 536.010, that is created
71 under the authority delegated in this section shall become effective only if it
72 complies with and is subject to all of the provisions of chapter 536 and, if
73 applicable, section 536.028. This section and chapter 536 are nonseverable and
74 if any of the powers vested with the general assembly pursuant to chapter 536 to
75 review, to delay the effective date, or to disapprove and annul a rule are
76 subsequently held unconstitutional, then the grant of rulemaking authority and
77 any rule proposed or adopted after August 28, 2005, shall be invalid and void;

78 (c) A status report on all such mortgage securities shall be provided to the
79 state treasurer on a calendar monthly basis in the manner and format prescribed
80 by the state treasurer by the financial institutions pledging such mortgage
81 securities and also shall certify their compliance with subsection 2 for such
82 mortgage securities;

83 (d) In the alternative to paragraph (a) of this subdivision, a financial
84 institution may provide a blanket lien on all loans secured by one to four family
85 real estate, all loans secured by commercial real estate, all loans secured by farm
86 real estate, or any combination of these categories, provided the financial
87 institution secures such blanket liens with real estate located in Missouri and
88 states adjacent to Missouri and otherwise complies with paragraphs (b) and (c)
89 of this subdivision;

90 (e) The provisions of paragraphs (a) to (d) of this subdivision are not
91 authorized for any Missouri political subdivision, notwithstanding the provisions
92 of chapter 110 to the contrary;

93 (f) As used in this subdivision, the term "unencumbered" shall mean
94 mortgage securities pledged for state funds as provided in subsection 1 of this

95 section, and not subject to any other express claims by any third parties,
96 including but not limited to a blanket lien on the bank assets by the Federal
97 Home Loan Bank, a depositary arrangement when securities are loaned and
98 repurchased daily or otherwise, or the depositary has pledged its stock and assets
99 for a loan to purchase another depositary or otherwise; and

100 (g) As used in this subdivision, the term "well capitalized" shall mean a
101 banking institution that according to its most recent report of condition and
102 income or thrift financial report, publicly available as applicable, qualifies as well
103 capitalized under the uniform capital requirements established by the federal
104 banking regulators or as determined by state banking regulators under
105 substantially similar requirements;

106 [(17)] (15) Any investment that the state treasurer may invest in as
107 provided in article IV, section 15 of the Missouri Constitution, and subject to the
108 state treasurer's written investment policy in section 30.260, that is not otherwise
109 provided for in this section, provided the banking institution or eligible lending
110 institution as defined in subdivision (10) of section 30.750 is well capitalized, as
111 defined in subdivision (16) of this subsection. The provisions of this subdivision
112 are not authorized for political subdivisions, notwithstanding the provisions of
113 chapter 110 to the contrary.

114 2. Securities deposited shall be in an amount valued at market equal at
115 least to one hundred percent of the aggregate amount on time deposit as well as
116 on demand deposit with the particular financial institution less the amount, if
117 any, which is insured either by the Federal Deposit Insurance Corporation or by
118 the National Credit Unions Share Insurance Fund. Furthermore, for a
119 well-capitalized banking institution, securities authorized in this section that are:

120 (1) Mortgage securities on loans secured on one to four family real estate
121 appraised to reflect the market value at the time of the loan and deposited as
122 collateral shall not exceed one hundred twenty-five percent of the aggregate
123 amount of time deposits and demand deposits;

124 (2) Mortgage securities on loans secured on commercial real estate or on
125 farm real estate appraised to reflect the market value at the time of the loan and
126 deposited as collateral shall not exceed the collateral requirements of the Federal
127 Home Loan Bank of Des Moines, Iowa;

128 (3) United States Treasury securities and United States Federal Agency
129 debentures issued by Fannie Mae, Freddie Mac, the Federal Home Loan Bank,
130 or the Federal Farm Credit Bank valued at market and deposited as collateral
131 shall not exceed one hundred five percent of the aggregate amount of time
132 deposits and demand deposits. All other securities, except as noted elsewhere in

133 this section valued at market and deposited as collateral shall not exceed one
134 hundred fifteen percent of the aggregated amount of the time deposits and
135 demand deposits; and

136 (4) Securities that are surety bonds and letters of credit authorized as
137 collateral need only collateralize one hundred percent of the aggregate amount
138 of time deposits and demand deposits.

139 3. The securities or book entry receipts shall be delivered to the state
140 treasurer and receipted for by the state treasurer and retained by the treasurer
141 or by financial institutions that the governor, state auditor and treasurer agree
142 upon. The state treasurer shall from time to time inspect the securities and book
143 entry receipts and see that they are actually held by the state treasury or by the
144 financial institutions selected as the state depositories. The governor and the
145 state auditor may inspect or request an accounting of the securities or book entry
146 receipts, and if in any case, or at any time, the securities are not satisfactory
147 security for deposits made as provided by law, they may require additional
148 security to be given that is satisfactory to them.

149 4. Any securities deposited pursuant to this section may from time to time
150 be withdrawn and other securities described in the list provided for in subsection
151 1 of this section may be substituted in lieu of the withdrawn securities with the
152 consent of the treasurer; but a sufficient amount of securities to secure the
153 deposits shall always be held by the treasury or in the selected depositories.

154 5. If a financial institution of deposit fails to pay a deposit, or any part
155 thereof, pursuant to the terms of its contract with the state treasurer, the state
156 treasurer shall forthwith convert the securities into money and disburse the same
157 according to law.

158 6. Any financial institution making deposits of bonds with the state
159 treasurer pursuant to the provisions of this chapter may cause the bonds to be
160 endorsed or stamped as it deems proper, so as to show that they are deposited as
161 collateral and are not transferable except upon the conditions of this chapter or
162 upon the release by the state treasurer.

✓