

SECOND REGULAR SESSION  
[P E R F E C T E D]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 635**  
96TH GENERAL ASSEMBLY

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Reported from the Committee on Financial and Governmental Organizations and Elections, February 23, 2012, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 635, adopted March 7, 2012.

Taken up for Perfection March 7, 2012. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

5139S.02P

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**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.

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*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Section A. Section 30.270, RSMo, is repealed and one new section enacted  
2 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  
2 pursuant to the provisions of this chapter, the state treasurer shall, from time to  
3 time, submit a list of acceptable securities to be approved by the governor and  
4 state auditor if satisfactory to them, and the state treasurer shall require of the  
5 selected and approved banks or financial institutions as security for the  
6 safekeeping and payment of deposits, securities from the list provided for in this  
7 section, which list shall include only securities of the following kind and  
8 character, unless it is determined by the state treasurer that the use of such  
9 securities as collateral may place state public funds at undue risk:

- 10 (1) Bonds or other obligations of the United States;  
11 (2) Bonds or other obligations of the state of Missouri including revenue  
12 bonds issued by state agencies or by state authorities created by legislative  
13 enactment;  
14 (3) Bonds or other obligations of any city in this state having a population  
15 of not less than two thousand;

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

16 (4) Bonds or other obligations of any county in this state;

17 (5) Approved registered bonds or other obligations of any school district,  
18 including certificates of participation and leasehold revenue bonds, situated in  
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 principal  
29 and interest by the government of the United States or any agency or  
30 instrumentality thereof;

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

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

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

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

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

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

50 a. Are underwritten to conform to standards established by the state  
51 treasurer, which are substantially similar to standards established by the Federal

52 Home Loan Bank of Des Moines, Iowa, and any of its successors in interest that  
53 provide funding for financial institutions in Missouri;

54 b. Are offered by a financial institution in which a senior executive officer  
55 certifies under penalty of perjury that such loans are compliant with the  
56 requirements of the Federal Home Loan Bank of Des Moines, Iowa, when such  
57 loans are pledged by such bank;

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

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

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

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

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

88 of this subdivision;

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

92 (f) As used in this subdivision, the term "unencumbered" shall mean  
93 mortgage securities pledged for state funds as provided in subsection 1 of this  
94 section, and not subject to any other express claims by any third parties,  
95 including but not limited to a blanket lien on the bank assets by the Federal  
96 Home Loan Bank, a depository arrangement when securities are loaned and  
97 repurchased daily or otherwise, or the depository has pledged its stock and assets  
98 for a loan to purchase another depository or otherwise; and

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

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

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

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

123 (2) Mortgage securities on loans secured on commercial real estate or on

124 farm real estate appraised to reflect the market value at the time of the loan and  
125 deposited as collateral shall not exceed the collateral requirements of the Federal  
126 Home Loan Bank of Des Moines, Iowa;

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

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

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

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

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

157 6. Any financial institution making deposits of bonds with the state  
158 treasurer pursuant to the provisions of this chapter may cause the bonds to be  
159 endorsed or stamped as it deems proper, so as to show that they are deposited as

160 collateral and are not transferable except upon the conditions of this chapter or  
161 upon the release by the state treasurer.

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Bill

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