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A.B. 39

ASSEMBLY BILL NO. 39—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE TREASURER)

PREFILED NOVEMBER 16, 2018

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to governmental financial administration. (BDR 31-477)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets *[omitted material]* is material to be omitted.

AN ACT relating to governmental financial administration; revising provisions governing the deposit of state money by the State Treasurer; revising provisions relating to the holding of certain securities as collateral against deposits of public money in certain circumstances; revising the provisions governing the program established by the State Treasurer for the monitoring of certain collateral maintained by certain depositories; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, all money under the control of the State Treasurer that belongs to the State of Nevada is required to be deposited in any state or national banks, any insured credit unions, any insured savings and loan associations or any insured savings banks in Nevada, and with certain approval, outside Nevada. (NRS 356.010) **Section 1** of this bill limits the types of state or national banks in which state money is required to be deposited to insured state or national banks. **Section 3** of this bill makes a conforming change.

Existing law requires that money deposited by the State Treasurer or a county treasurer which is not within the limits of insurance provided by an instrumentality of the United States be secured by collateral composed of certain types of securities. These securities are authorized to be pledged by the depository holding the uninsured public money with the State Treasurer or county treasurer, as applicable, or held in trust by certain financial entities. (NRS 356.020, 356.133) As an alternative method, a depository is authorized under existing law to arrange for a third-party depository to hold certain securities as collateral for the uninsured balances of specified public entities on behalf of the depository for the benefit of a



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collateral pool pursuant to regulations adopted by the State Treasurer. (NRS 356.300-356.390; NAC 356.010-356.180) Trust companies are one of the entities under existing law that may serve as a third-party depository in the collateral pool program. (NRS 356.340) **Sections 2 and 4** of this bill include trust companies as one of the entities with which a depository that is not participating in the collateral pool program is authorized to pledge securities as such collateral. **Sections 2, 4 and 5** of this bill also include certain registered broker-dealers as entities that are authorized to hold securities as such collateral on behalf of depositories.

Sections 6-8 of this bill clarify the depositories to which the collateral pool program established by the State Treasurer apply. (NRS 356.350-356.370) As part of the collateral pool program, depositories are required to submit certain periodic reports to the State Treasurer. (NRS 356.360) **Section 7** of this bill: (1) changes the contents of the monthly report that such a depository is required to submit to the State Treasurer to a list of accounts at the depository that hold public money; and (2) requires a depository to direct a third-party depository that holds certain securities in trust for the depository to submit directly to the State Treasurer the monthly report that is currently required to be submitted by the depository under existing law which lists those securities held in trust for the depository by the third-party depository.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 356.010 is hereby amended to read as follows:

356.010 1. All money under the control of the State Treasurer belonging to the State must be deposited in any *insured* state or national banks, any insured credit unions, any insured savings and loan associations or any insured savings banks in this State or, if approved by the State Board of Finance, in any *insured* banks, insured credit unions, insured savings and loan associations or insured savings banks outside of this State.

2. The State Treasurer may, with the approval of the State Board of Finance, enter into an agreement with ~~fa~~ *an insured* bank, insured credit union, insured savings and loan association or insured savings bank to:

(a) Arrange for the redeposit of any money under the control of the State Treasurer that exceeds the limits of insurance provided by an instrumentality of the United States or pursuant to NRS 678.750 into one or more insured deposit accounts in one or more insured state or national banks, credit unions, insured savings and loan associations or insured savings banks; and

(b) Ensure that the total amount of money redeposited and any interest accrued on the money is within the limits of insurance provided by an instrumentality of the United States or pursuant to NRS 678.750.

3. The depository banks, credit unions, savings and loan associations or savings banks may, if authorized by a contract negotiated with the State Treasurer, receive compensation for



1 handling, collecting and paying all checks, drafts and other
2 exchange. The compensation may be provided through the use of a
3 compensating balance or a fixed-rate fee, or any combination
4 thereof.

5 **Sec. 2.** NRS 356.020 is hereby amended to read as follows:

6 356.020 1. All money deposited by the State Treasurer which
7 is not within the limits of insurance provided by an instrumentality
8 of the United States must be secured by collateral composed of the
9 following types of securities:

10 (a) United States treasury notes, bills, bonds or obligations as to
11 which the full faith and credit of the United States are pledged for
12 the payment of principal and interest, including the guaranteed
13 portions of Small Business Administration loans if the full faith and
14 credit of the United States is pledged for the payment of the
15 principal and interest;

16 (b) Bonds of this state;

17 (c) Bonds of any county, municipality or school district within
18 this state;

19 (d) Promissory notes secured by first mortgages or first deeds of
20 trust which meet the requirements of NRS 356.025;

21 (e) Mortgage-backed pass-through securities guaranteed by the
22 Federal National Mortgage Association, the Federal Home Loan
23 Mortgage Corporation or the Government National Mortgage
24 Association;

25 (f) Collateralized mortgage obligations or real estate mortgage
26 investment conduits that are rated "AAA," "Aaa" or its equivalent
27 by a nationally recognized rating service;

28 (g) Instruments in which the State is permitted by NRS 355.140
29 to invest; or

30 (h) Irrevocable letters of credit from any Federal Home Loan
31 Bank with the State Treasurer named as the beneficiary.

32 2. Collateral deposited by the depository bank, credit union,
33 savings and loan association or savings bank must be pledged with
34 the State Treasurer or with *a trust company, a broker-dealer*
35 *registered under 15 U.S.C. § 78o(b)(1),* any Federal Home Loan
36 Bank ~~[]~~ *or any insured bank, [or any insured]* credit union, savings
37 and loan association or savings bank, other than the depository
38 bank, credit union, savings and loan association or savings bank,
39 which will accept the securities in trust for the purposes of this
40 section.

41 3. The fair market value of the deposit of securities as
42 collateral by each depository bank, credit union, savings and loan
43 association or savings bank must be at least the amount required
44 pursuant to NRS 356.300 to 356.390, inclusive. The fair market
45 value of any collateral consisting of promissory notes with first



1 mortgages or first deeds of trust shall be deemed to be 75 percent of
2 the unpaid principal of the notes.

3 4. All securities to be used as such collateral are subject to
4 review by the State Treasurer. The depository bank, credit union,
5 savings and loan association or savings bank shall submit reports to
6 the State Treasurer as required pursuant to NRS 356.300 to 356.390,
7 inclusive.

8 5. The State Treasurer may, from time to time, require the
9 deposit of additional securities as collateral if, in his or her
10 judgment, the additional securities are necessary to secure the State
11 Treasurer's deposit.

12 **Sec. 3.** NRS 356.090 is hereby amended to read as follows:

13 356.090 In consideration of no exchange or collection charges
14 being made on checks or coupons of, or remittance to, the State, any
15 *insured* banks, insured credit unions, insured savings and loan
16 associations or insured savings banks at the state capital may be
17 relieved by the State Treasurer, with the approval of the State Board
18 of Finance, from the payment of any interest on amounts deposited
19 with them.

20 **Sec. 4.** NRS 356.133 is hereby amended to read as follows:

21 356.133 1. All money deposited by a county treasurer that is
22 not within the limits of insurance provided by an instrumentality of
23 the United States must be secured by collateral composed of the
24 following types of securities:

25 (a) United States treasury notes, bills, bonds or obligations as to
26 which the full faith and credit of the United States are pledged for
27 the payment of principal and interest, including the guaranteed
28 portions of Small Business Administration loans if the full faith and
29 credit of the United States is pledged for the payment of the
30 principal and interest;

31 (b) Bonds of this state;

32 (c) Bonds of a county, municipality or school district within this
33 state;

34 (d) Mortgage-backed pass-through securities guaranteed by the
35 Federal National Mortgage Association, the Federal Home Loan
36 Mortgage Corporation or the Government National Mortgage
37 Association;

38 (e) Instruments in which the county is authorized by NRS
39 355.170 to invest; or

40 (f) Irrevocable letters of credit from any Federal Home Loan
41 Bank with the State Treasurer named as the beneficiary.

42 2. Collateral deposited by the depository bank, credit union,
43 savings and loan association or savings bank must be pledged with
44 the county treasurer or with a *trust company, a broker-dealer*
45 *registered under 15 U.S.C. § 78o(b)(1), a* Federal Home Loan Bank



1 ~~[H]~~ or any insured bank, insured credit union, insured savings and
2 loan association or insured savings bank, other than the depository
3 bank, credit union, savings and loan association or savings bank,
4 which will accept the securities in trust for the purposes of this
5 section.

6 3. The fair market value of the deposit of securities as
7 collateral by each depository bank, credit union, savings and loan
8 association or savings bank must be at least the amount required
9 pursuant to NRS 356.300 to 356.390, inclusive.

10 4. All securities to be used as such collateral are subject to
11 review by the county treasurer and the board of county
12 commissioners. The depository bank, credit union, savings and loan
13 association or savings bank shall submit reports to the State
14 Treasurer as required pursuant to NRS 356.300 to 356.390,
15 inclusive. The State Treasurer will provide periodic reports to the
16 county treasurer showing the securities which constitute the
17 collateral and their fair market value.

18 5. The county treasurer or the board of county commissioners
19 may, from time to time, require the deposit of additional securities
20 as collateral if, in their judgment, the additional securities are
21 necessary to secure the county treasurer's deposit.

22 **Sec. 5.** NRS 356.340 is hereby amended to read as follows:

23 356.340 "Third-party depository" means a trust company , *a*
24 *broker-dealer registered under 15 U.S.C. § 78o(b)(1)* or trust
25 department of a state, national or federal reserve district bank which
26 is authorized to hold acceptable securities on behalf of a depository
27 for the benefit of a collateral pool pursuant to regulations adopted by
28 the State Treasurer under NRS 356.390.

29 **Sec. 6.** NRS 356.350 is hereby amended to read as follows:

30 356.350 The State Treasurer shall establish a program for the
31 monitoring of collateral maintained by ~~[depositories.]~~ *a depository*
32 *for the uninsured balances of public money upon the request of*
33 *the public entity that deposited the public money with the*
34 *depository.*

35 **Sec. 7.** NRS 356.360 is hereby amended to read as follows:

36 356.360 The program established pursuant to NRS 356.350
37 must provide that:

38 1. Each depository *that participates in the program* is required
39 to maintain as collateral acceptable securities having a fair market
40 value that is at least 102 percent of the amount of the uninsured
41 balances of the public money held by the depository;

42 2. A depository ~~[may]~~ *shall* satisfy the requirement set forth in
43 subsection 1 by arranging for a third-party depository to hold
44 acceptable securities on behalf of the depository for the benefit of a



collateral pool pursuant to regulations adopted by the State Treasurer under NRS 356.390;

3. No depository *that participates in the program* may, at any one time, hold public money in an amount exceeding the total equity of the depository, as reflected on the financial statement of the depository;

4. Each depository *that participates in the program* is required to ~~submit~~:

(a) *Submit* to the State Treasurer, in the form and manner prescribed by the State Treasurer, the following reports:

~~(a)~~ (1) A daily report of the total amount of public money held by the depository;

~~(b)~~ (2) If requested by the State Treasurer, a weekly summary report of the total fair market value of acceptable securities held by a third-party depository on behalf of the depository;

~~(c)~~ (3) A monthly report setting forth a list of ~~acceptable securities, including, without limitation, the fair market value of those securities, held by the depository or held by any third-party depository on behalf of the depository; and~~

~~(d)~~ *accounts at the depository that hold public money; and*

(4) A current annual report containing the financial statement of the depository; and

(b) *Direct any third-party depository that holds acceptable securities on behalf of the depository to submit a monthly report to the State Treasurer setting forth a list of those securities, including, without limitation, the fair market value of those securities; and*

5. The State Treasurer may impose an administrative fine not to exceed:

(a) One hundred dollars per day against a depository that fails to submit *or fails to direct the submission of* in a timely manner a report required by subsection 4; and

(b) Two hundred fifty dollars per day against a depository that fails to maintain the collateral required by subsection 1.

Sec. 8. NRS 356.370 is hereby amended to read as follows:

356.370 1. Once each fiscal year, the State Treasurer shall levy a pro rata assessment against each depository that ~~held public money~~ *participated in the program established pursuant to NRS 356.350* at any time during the immediately preceding fiscal year.

2. The amount of the assessment levied pursuant to subsection 1 must be based on the average weekly deposits of public money held by a depository.

3. The State Treasurer shall provide to each depository a notice setting forth:



1 (a) The amount of the assessment levied against the depository
2 pursuant to subsection 1; and

3 (b) The provisions of NRS 356.380.

4 **Sec. 9.** This act becomes effective:

5 1. Upon passage and approval for the purpose of adopting any
6 regulations and performing any other preparatory administrative
7 tasks necessary to carry out the provisions of this act; and

8 2. On July 1, 2019, for all other purposes.

