

Insurance & Banking Subcommittee

Wednesday, February 16, 2022
8:30 AM - 10:00 AM
Morris Hall (17 HOB)

Meeting Packet

Chris Sprowls
Speaker

Nick DiCeglie
Chair

The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

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Meeting Agenda

Wednesday, February 16, 2022
8:30 AM – 10:00 AM
Morris Hall (17 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- HB 649 Transfers in Divorce by Driskell
- HB 1559 Public Deposits by Harding, Rizo

V. Closing Remarks

VI. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 649 Transfers in Divorce
SPONSOR(S): Driskell
TIED BILLS: **IDEN./SIM. BILLS:** SB 968

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Property Rights Subcommittee	17 Y, 0 N	Mathews	Jones
2) Insurance & Banking Subcommittee		Hinshelwood	Luczynski
3) Judiciary Committee			

SUMMARY ANALYSIS

An Individual Retirement Account (IRA) is a retirement savings account that provides the account owner with certain tax benefits which are not available for a traditional savings account. An IRA is intended to be the property of its owner and may only be transferred to another person upon the owner's death or incident to divorce during a dissolution of marriage. If an IRA is transferred to a spouse or ex-spouse incident to a divorce, the spouse receiving the IRA becomes the new owner of the interest in the assets in the other spouse's IRA on the effective date of the transfer. In order to effect the transfer incident to a divorce, the parties must give the IRA custodian a copy of the court's order directing how the account must be split, and the custodian may then split the account or transfer the account accordingly, in a tax-free transfer. The assets in an IRA may be transferred in a divorce by:

- Name change, where the transfer is executed by changing the name of the IRA owner from that of one spouse or former spouse to that of the other; or
- Direct transfer, where the assets in one spouse's IRA are directly transferred or rolled over to a new or existing IRA of the other spouse.

Under the U.S. Bankruptcy Code, a state may specify assets which are exempt from creditors' claims in a bankruptcy proceeding, and Florida has done so. Florida law provides a number of exemptions for various retirement related assets, such as IRAs. Florida provides protection against creditor claims for IRA accounts that are exempt from taxation under s. 408 of the Internal Revenue Code (IRC), and the IRC tax exemption for an IRA account awarded incident to a divorce provides tax-exempt status for a former spouse's interest in such an account at the time the transfer is made, and thereafter. Although there is no current controversy in Florida regarding the protection afforded an IRA account awarded incident to a divorce, recent bankruptcy court decisions from other jurisdictions may indicate the need to clarify such protection under Florida law.

HB 649 clarifies that any interest in an IRA awarded or received in a transfer incident to divorce is exempt from creditors upon being awarded or received and remains exempt from creditors' claims after the transfer is complete. The bill applies retroactively to all transfers made incident to divorce.

The bill has an indeterminate fiscal impact on the private sector but does not appear to have a fiscal impact on state or local government.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Employee Retirement Income Security Act (ERISA)

ERISA is a federal law that sets minimum standards for most voluntarily established retirement plans in the private industry to provide protection for individuals in those plans.[1] ERISA identifies requirements for plans for the protection of plan participants.

401(k) Plan

A 401(k) plan is a feature of a qualified profit-sharing plan that allows employees to contribute a portion of their wages to individual accounts.[2] An employee's elective contributions are excluded from the employee's taxable income; however, distributions, including earnings, are considered taxable income at retirement.

Individual Retirement Accounts

An Individual Retirement Account (IRA) is "…a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries."[3] An IRA is created by a written document which shows that the account meets the following criteria: [4]

- The account's trustee or custodian must be a bank, federally insured credit union, savings and loan association, or other entity approved by the Internal Revenue Service (IRS) to act as such.
- The trustee or custodian generally may not accept contributions in an amount more than the account's deductible amount for the year, but rollover contributions and employer contributions to a simplified employee pension (SEP)[5] can be more than this amount.
- Contributions, except for rollover contributions, must be in cash.
- The account owner must have a non-forfeitable right to the amount in the account at all times.
- Money in the account cannot be used to buy a life insurance policy.
- Assets in the account cannot be combined with other property, except in a common trust fund or common investment fund.
- The account owner must begin receiving distributions from the account in April of the year after he or she reaches age 70 1/2.[6]

An IRA may be a traditional IRA or a Roth IRA. While a traditional IRA allows an account owner to make tax deductible contributions into the account and defer being taxed on the income until making

[1] U.S. Department of Labor, Employee Retirement Income Security Act (ERISA), https://www.dol.gov/general/topic/retirement/erisa (last visited Feb. 7, 2022).
[2] Internal Revenue Service, 401(k) Plans, (Sep. 23, 2020), https://www.irs.gov/retirement-plans/401k-plans (last visited Feb. 7, 2022).
[3] 26 U.S.C. s. 408(a).
[4] IRS Publication 590-A, *Contributions to Individual Retirement Arrangements (IRAs)*, (2021), https://www.irs.gov/publications/p590a (last visited Feb. 7, 2022).
[5] An SEP is a written arrangement that allows your employer to make deductible contributions to a traditional IRA (an SEP IRA) set up for the account owner to receive such contributions. Generally, distributions from SEP IRAs are subject to the withdrawal and tax rules that apply to traditional IRAs. *Id*.
[6] The federal Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) became law on December 20, 2019, and made changes to the required minimum distribution rules for IRAs. If you reached the age of 70½ in 2019, the prior rule applies, and you must take your first required minimum distribution by April 1, 2020. If you reach age 70 ½ in 2020 or later, you must take your first required minimum distribution by April 1 of the year after you reach age 72. *Internal Revenue Service, Retirement Plan and IRA Required Minimum Distributions FAQs*, https://www.irs.gov/retirement-plans/retirement-plans-faqs-regarding-required-minimum-distributions (last visited Feb. 14, 2022).

withdrawals after retirement,[7] a Roth IRA allows an account owner to make non-tax-deductible contributions into the account and make tax-free withdrawals after retirement.[8]

An IRA is intended to be the property of its owner and may only be transferred to another person upon the owner's death or incident to divorce in a dissolution of marriage proceeding. When an IRA account owner dies, the account may be transferred to a named beneficiary.

If the beneficiary is not the account owner's spouse, the IRA is considered an inherited IRA.[9] The beneficiary of an inherited IRA:

- May not make contributions to the account;
- Must make withdrawals regardless of his or her age; and
- Is not subject to a penalty for early withdrawals from the account.

If the beneficiary is the account owner's spouse, the beneficiary may do one of the following:[10]

- Treat the IRA as his or her own IRA by designating himself or herself as the account owner;
- Treat the IRA as his or her own by rolling it over into his or her own IRA, or to the extent it is taxable, into a:
    - Qualified employer plan;
    - Qualified employee annuity plan (section 403(a) plan);
    - Tax-sheltered annuity plan (section 403(b) plan); or
    - State or local government deferred compensation plan (section 457 plan).
- Treat himself or herself as the beneficiary of the IRA.

When an IRA is transferred to a spouse or ex-spouse incident to a divorce, the spouse receiving the IRA becomes the new owner of the assets in the other spouse's IRA on the effective date of the transfer. There is no legal authority for an IRA to be split or transferred until the divorce is finalized, and a court order is entered directing how the account must be split. The parties must give the IRA custodian a copy of the court's order, and the custodian may then split the account or transfer the account accordingly, in a tax-free transfer. The assets in an IRA may be transferred by:

- Changing the name of the IRA owner from that of one spouse or former spouse to that of the other; or
- Making a direct transfer of the IRA assets or a portion of the assets from one spouse's IRA directly into the other spouse's new or existing IRA.

IRA Asset Protection

A state's laws may affect an IRA in a case involving a trust, real estate, or a bankruptcy exemption that protects the IRA from the claims of creditors. A person may file for bankruptcy to assist in discharging debt or committing to a plan to repay debts. All bankruptcy cases are handled in federal courts under rules outlined in the U.S. Bankruptcy Code (Code).[11] In general, filing for bankruptcy serves two purposes: to convert the estate of the debtor into cash and distribute it among creditors; and to give the debtor a fresh start by providing certain exemptions and rights to assets that bankruptcy does not reach.[12] A person may file one of two primary forms of bankruptcy.[13] In a proceeding under Chapter 7 of the Code, a debtor must surrender his or her assets to a trustee who then liquidates the assets and distributes all proceeds to the debtor's creditors.[14] A Chapter 13 bankruptcy petition allows a debtor to stay creditor actions and propose a plan to pay all creditors, thus rehabilitating the debtor financially.[15]

[7] *Id*.
[8] *Id*.
[9] 26 U.S.C. s. 401(a)(9).
[10] IRS, *supra* note 2, at 20.
[11] 11 U.S.C. s. 101, et seq.
[12] 9 Am. Jur. 2d Bankruptcy s. 5.
[13] An individual may also file a petition under Chapter 11, but such petitions are rare.
[14] 11 U.S.C. ss. 704 & 726.
[15] 9 Am Jur. 2d Bankruptcy s. 72.

In either a Chapter 7 or Chapter 13 bankruptcy, a debtor may claim certain property as exempt from creditors in the bankruptcy proceedings.[16] The Code provides many exemptions to protect certain assets from creditors' claims, but under the Code, a state may choose to opt out of these exemptions.[17] If a state chooses to opt out, the federal Code exemptions are not available to debtors within that state, unless the state specifically opts in to a Code exemption within state law. A state may also provide greater asset protections than the Code.

Florida is an opt-out state, meaning that when a Florida resident files for bankruptcy or is otherwise subject to a creditor's judgment, Florida law, rather than the federal Code, provides the exemptions available to the debtor.[18] Florida law provides a number of exemptions for various retirement-related assets, such as IRAs and other pension, profit-sharing, and retirement benefits.[19] Florida also exempts all inherited IRA accounts from creditors' claims, while the Code does not.[20]

Transfers Incident to Divorce

Florida provides protection against creditor claims for IRA accounts that are exempt from taxation under s. 408 of the Internal Revenue Code (IRC),[21] and the IRC tax exemption for an IRA account awarded incident to a divorce provides tax-exempt status for a former spouse's interest in such an account at the time the transfer is made, and thereafter.[22]

Although there is no current controversy in Florida regarding the protection afforded an IRA account awarded incident to a divorce, recent bankruptcy court decisions from other jurisdictions may indicate the need to clarify such protection under Florida law. In a 2018 opinion, the U.S. Bankruptcy Appellate Court for the Eighth Circuit held that a debtor's funds must satisfy two requirements to be considered exempt retirement funds under the Code:

- The amount must be retirement funds; and
- The retirement funds must be in an account that is exempt from taxation under one of the provisions of the IRC.[23]

The Court found that the funds in an IRA account awarded to a transferee spouse incident to his divorce years before he filed for chapter 7 bankruptcy, but which he never transferred from his former wife's IRA account or designated himself as the owner of, were not retirement funds for purposes of a bankruptcy exemption.[24] As such, these funds were subject to creditors' claims.

Effect of Proposed Changes

HB 649 clarifies that any interest in an IRA awarded or received in a transfer incident to divorce is exempt from creditors upon being awarded or received and remains exempt from creditors' claims after the transfer is complete.

The bill provides that it is effective upon becoming a law and applies retroactively to all transfers made incident to divorce.

B. SECTION DIRECTORY:

Section 1: Amends s. 222.21, F.S., relating to exemption of pension money and certain tax-exempt funds or accounts from legal processes.
Section 2: Provides that the bill is effective upon becoming a law.

[16] 11.U.S.C. s. 522.
[17] 11.U.S.C. ss. 522(b)(3)(A) & (d).
[18] S. 222.20, F.S.
[19] S. 222.21(2), F.S.
[20] S. 222.21(2)(c), F.S.
[21] S. 222.21(2), F.S.
[22] 28 U.S.C. s. 408(d)(6).
[23] *In re Lerbakken*, 590 B.R. 895 (2018); *see Clark v. Rameker*, 573 U.S. 122 (2014).
[24] *Lerbakken*, 590 B.R. at 897, 898.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill may make it more difficult for creditors to access certain interests in IRAs transferred pursuant to dissolution of marriage actions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to transfers in divorce; amending s. 222.21, F.S.; specifying that certain interests received by a transferee after a divorce are exempt from claims of creditors upon being awarded to or received by the transferee; specifying that such interests remain exempt; providing retroactive applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (2) of section 222.21, Florida Statutes, is amended to read:

222.21 Exemption of pension money and certain tax-exempt funds or accounts from legal processes.—

(2)

(c) Any money or other assets or any interest in any fund or account that is exempt from claims of creditors of the owner, beneficiary, or participant under paragraph (a) does not cease to be exempt after the owner's death by reason of a direct transfer or eligible rollover that is excluded from gross income under the Internal Revenue Code of 1986, including, but not limited to, a direct transfer or eligible rollover to an inherited individual retirement account as defined in s. 408(d)(3) of the Internal Revenue Code of 1986, as amended. An

CODING: Words stricken are deletions; words underlined are additions.

interest in any fund or account awarded or received in a transfer incident to divorce described in s. 408(d)(6) of the Internal Revenue Code of 1986, as amended, is exempt upon the interest being awarded or received and continues to be exempt thereafter. This paragraph is intended to clarify existing law, is remedial in nature, and shall have retroactive application to all inherited individual retirement accounts and to each transfer incident to divorce without regard to the date an account was created or the transfer was made.

Section 2. This act shall take effect upon becoming a law.

HB 1559

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1559 Public Deposits
SPONSOR(S): Harding and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1318

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Hinshelwood	Luczynski
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

State and local governments are required, unless exempted by law, to deposit public funds in a qualified public depository (QPD) pursuant to the Florida Security for Public Deposits Act (Act), which is administered by the Chief Financial Officer (CFO) and the Department of Financial Services (DFS). Before a QPD accepts or retains a public deposit, it must deposit collateral with an approved custodian in an amount commensurate with the amount of public deposits held and commensurate with the financial stability of the QPD. Currently, banks, savings banks, and savings associations are the only types of financial institutions eligible to be a QPD or a custodian for another QPD's pledged collateral.

The bill makes the following amendments to the Act:

- Makes state-chartered and federally-chartered credit unions eligible to become QPDs and custodians for another QPD's pledged collateral;
- Provides criteria that a credit union must meet before the CFO can designate a credit union as a QPD;
- Creates separate mutual responsibility and contingent liability provisions for credit unions, in order to prevent banks from sharing liability with credit unions in the event of a credit union QPD's default or insolvency, and vice versa; and
- Requires the CFO to segregate and separately account for any collateral proceeds, assessments, or administrative penalties attributable to a credit union from those attributable to any bank, savings bank, or savings association.

Although there is potential for the bill to have a positive impact on revenues of state government, the bill will require recurring and non-recurring expenditures. See *Fiscal Impact on State Government* section. The bill does not include an appropriation to fund DFS's implementation and ongoing maintenance of credit unions as QPDs. The bill has an indeterminate fiscal impact on local governments and the private sector.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Depositories

State and local governments are required, unless exempted by law, to deposit public funds in a qualified public depository (QPD)[1] pursuant to the Florida Security for Public Deposits Act (Act).[2] A QPD is any bank, savings bank, or savings association that:

- Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States (i.e., state or federally chartered);
- Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state;
- Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss. 1811 et seq.;
- Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits;
- Meets all the requirements of the Act; and
- Has been designated by the Chief Financial Officer (CFO) as a QPD.[3]

Upon approval by the CFO, these banks, savings banks, and savings associations may accept "public deposits"[4] from state and local governments. The Act does not permit credit unions to become QPDs, due to their absence from the definition of "qualified public depository." As of January 25, 2022, there are 119 active QPDs in this state.[5]

Before a QPD accepts or retains a public deposit, it must deposit collateral with an approved custodian in an amount commensurate with the amount of public deposits held and commensurate with the financial stability of the QPD.[6] The Act's collateral requirements protect public deposits against loss in the event of certain triggering events, most notably, a QPD's insolvency or default.[7] Losses are satisfied first through the standard maximum federal deposit insurance of $250,000,[8] and then through the CFO's demand for payment under letters of credit or the sale of collateral pledged or deposited by the defaulting QPD. Any shortfall would then be covered by the CFO's authority to impose assessments against the other solvent QPDs, who must agree to share mutual responsibility and contingent liability as a condition of acting as a QPD.[9]

A "custodian" can be any state or federally chartered bank, savings association, and trust company that is approved by the CFO to hold the collateral that QPDs have pledged to secure public deposits.[10] These are referred to as "regular" custodians. Subject to specified requirements, QPDs also have the option to pledge their collateral with custodians who are bound under a custody contract directly with

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[1] S. 280.03(1)(b), F.S.
[2] Ch. 280, F.S.
[3] S. 280.02(26), F.S.
[4] Public deposits include, but are not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposits, but do not include moneys in deposit notes, securities, mutual funds, and similar investments. S. 280.02(23), F.S.
[5] A list of active QPDs is available at: https://myfloridacfo.com/docs-sf/treasury-libraries/treasury-documents/listofactiveqpds.pdf (last visited Feb. 11, 2022).
[6] S. 280.04, F.S. *See also* ch. 69C-2, F.A.C.
[7] S. 280.041(6), F.S.
[8] 12 U.S.C. § 1821(a)(1)(E).
[9] S. 280.07, F.S.
[10] Ss. 280.02(10) and 280.041(1)(a), F.S.

the CFO ("CFO's custodians");[11] pursuant to an agreement with a Federal Reserve Bank;[12] or may use a Federal Home Loan Bank letter of credit that names the CFO as beneficiary.[13]

DFS oversees the Act's reporting and collateral pledging requirements through its public deposits program and Bureau of Collateral Management.[14] The CFO has authority to take action against noncompliant QPDs, as well as financial institutions that accept public deposits without a certificate of qualification from the CFO. In the event of loss to public depositors, the CFO has authority to oversee the payment of losses.

Regulation of Credit Unions

Like banks, savings banks, and savings associations, credit unions accept deposits and make loans, and can be state-chartered or federally-chartered:

- *State-chartered credit unions* may be formed under the Florida Credit Union Act (FCUA), which became law in 1980.[15] The FCUA provides that "[a] credit union is a cooperative, nonprofit association, organized . . . for the purposes of encouraging thrift among its members, creating sources of credit at fair and reasonable rates of interest, and providing an opportunity for its members to use and control their resources on a democratic basis in order to improve their economic and social condition."[16] State-chartered credit unions have both a state regulator, the Office of Financial Regulation, and a federal regulator, the National Credit Union Association (NCUA).
- *Federally-chartered credit unions* are chartered under the Federal Credit Union Act of 1934[17] and are regulated by the NCUA.

In addition to regulating both state-chartered and federally-chartered credit unions, the NCUA also operates and manages the National Credit Union Share Insurance Fund (NCUSIF), which insures share (deposit) accounts for members of all federally-chartered credit unions and most state-chartered credit unions.[18] All state-chartered credit unions operating in Florida must carry NCUSIF insurance.[19] The standard maximum share insurance amount is $250,000.[20]

Effect of Proposed Changes

The bill makes state-chartered and federally-chartered credit unions eligible to become QPDs and custodian for another QPD's pledged collateral.

The bill creates s. 280.042, F.S., to provide criteria that a credit union must meet before the CFO can designate a credit union as a QPD. These provisions are designed to protect public deposits. The credit union is required to submit its agreement of contingent liability and its collateral agreement to the CFO and meet the following requirements:

- The credit union must submit a signed statement from a public depositor (i.e., a state or local government) indicating that, if the credit union is designated as a QPD, the public depositor intends to deposit public funds with the credit union; and
- There are at least four other credit unions that are designated as QPDs or have applied to be designated as QPDs and have submitted an agreement of contingent liability, a collateral

[11] S. 280.041(1)(c) and (4), F.S.
[12] S. 280.041(1)(b) and (3), F.S.
[13] S. 280.041(1)(d) and (5), F.S.
[14] *Id.*
[15] Ch. 80-258, Laws of Fla.; codified at ch. 657, F.S.
[16] S. 657.003, F.S.
[17] Public Law 73-467, codified at 12 U.S.C. § 1751 *et seq.*
[18] Federally-chartered credit unions must be insured through NCUSIF, and state-chartered credit unions may be insured through NCUSIF, though some state-chartered credit unions may be insured by private insurance or guaranty corporations. *See* NCUA, *How Your Accounts Are Federally Insured*, available at https://www.ncua.gov/files/publications/guides-manuals/NCUAHowYourAcctInsured.pdf (last visited Feb. 11, 2022).
[19] Ss. 657.005(7), 657.008(5)(a)2., and 657.033(9), F.S.
[20] NCUA, *supra* note 18.

agreement, and a signed statement from a public depositor of intent to deposit public funds with the credit union.

The CFO must withdraw from a collateral agreement previously entered into with a credit union if, during any 90 calendar days, the combined total of the number of credit unions designated as QPDs and the number of eligible credit unions applying to be designated as QPDs is less than five. As a result of the CFO's withdrawal, the credit union loses its designation as a QPD, and must within 10 days after the CFO's notification of such withdrawal, return all public deposits that the credit union holds to the public depositor who deposited the funds. Additionally, the CFO may limit the amount of public deposits any one credit union may hold in order to make sure that no single credit union holds an amount of public deposits that might adversely affect the integrity of the public deposits program.

In order to prevent credit unions from sharing contingent liability with banks, and vice versa, the bill creates separate mutual responsibility and contingent liability provisions for credit unions. Any credit union that is designated as a QPD and that is not insolvent must guarantee public depositors against loss caused by the default or insolvency of *other credit unions* that are designated as QPDs. In the event of a default or insolvency of a credit union QPD, any loss to public depositors would be satisfied through any applicable share insurance and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting depository. The CFO may assess QPDs, subject to the segregation of contingent liability provided in s. 280.07, F.S., for the total loss if the demand for payment or sale of collateral cannot be accomplished within 7 business days.

The bill requires the CFO to segregate and separately account for any collateral proceeds, assessments, or administrative penalties attributable to a credit union from those attributable to any bank, savings bank, or savings association. Subject to this segregation of funds requirement, the CFO is authorized to pay any losses to public depositors from the Public Deposits Trust Fund.

Lastly, the bill makes conforming changes to allow credit unions to participate in the public deposit program and to subject credit union QPDs to the regulatory oversight of the CFO.

B. SECTION DIRECTORY:

Section 1. Amends s. 17.68, F.S., relating to Financial Literacy Program for Individuals with Developmental Disabilities.

Section 2. Amends s. 280.02, F.S., relating to definitions.

Section 3. Amends s. 280.03, F.S., relating to public deposits to be secured; prohibitions; exemptions.

Section 4. Creates s. 280.042, F.S., relating to credit union designations as qualified public depositories; withdrawal by the Chief Financial Officer from collateral agreements; limits on public deposits.

Section 5. Amends s. 280.05, F.S., relating to powers and duties of the Chief Financial Officer.

Section 6. Amends s. 280.052, F.S., relating to order of suspension or disqualification; procedure.

Section 7. Amends s. 280.053, F.S., relating to period of suspension or disqualification; obligations during period; reinstatement.

Section 8. Amends s. 280.055, F.S., relating to cease and desist order; corrective order; administrative penalty.

Section 9. Amends s. 280.07, F.S., relating to mutual responsibility and contingent liability.

Section 10. Amends s. 280.08, F.S., relating to procedure for payment of losses.

Section 11. Amends s. 280.085, F.S., relating to notice to claimants.

Section 12. Amends s. 280.09, F.S., relating to Public Deposits Trust Fund.

Section 13. Amends s. 280.10, F.S., relating to effect of merger, acquisition, or consolidation; change of name or address.

Section 14. Amends s. 280.13, F.S., relating to eligible collateral.

Section 15. Amends s. 280.17, F.S., relating to requirements for public depositors; notice to public depositors and governmental units; loss of protection.

Sections 16-33. Reenacts various sections of statutes to incorporate amendments to ch. 280, F.S.

Section 34. Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill's impact on state government revenues is indeterminate. However, the potential positive impact to revenues of state government is the same as the potential positive impact to revenues of local governments. See *Fiscal Impact on Local Governments* section below.

2. Expenditures:

   According to DFS, allowing credit unions to be QPDs will require: [21]

   - $188,650 in non-recurring expenditures for DFS's Office of Information Technology (OIT) to make:
     - Significant programming changes to the Collateral Administration Program (CAP), a computer application used to administer Florida's public deposits program.
     - Modifications to the Florida Planning Accounting, and Ledger Management (PALM) system to accommodate the required segregated accounting of collateral proceeds, assessments, or administrative penalties attributable to credit unions.
   - $5,728 in recurring expenditures for independent ranking service data on credit unions.
   - $75,450 in recurring expenditures for one additional Financial Examiner/Analyst II FTE, class code 1564, pay grade 023.

   The cost estimate for OIT changes described above may differ, as the cost of such changes has not been evaluated as of the current year.[22] The addition of credit unions as QPDs may also require additional ongoing OIT support, especially at the outset.[23]

   The bill does not include an appropriation to fund DFS's implementation and ongoing maintenance of credit unions as QPDs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

[21] Department of Financial Services, Agency Analysis of 2022 House Bill 1559 (Jan. 27, 2022).
[22] *Id.*
[23] *Id.*

The bill's impact on local government revenues is indeterminate. However, a 2014 study by the Office of Program Policy Analysis and Government Accountability explained the potential positive impact to local government public depositors:

> Federal and state tax differences between credit unions and banks may allow credit unions a competitive advantage when bidding for local government public deposits. Credit unions may also benefit from lower overhead costs since these institutions may use office space belonging to a sponsoring organization. The combined effect of lower taxes and overhead may allow credit unions to pay higher interest rates for public deposits and to provide other business services to local governments at a lower cost than banks.[24]

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Allowing credit unions to accept public deposits may generate additional income for the credit unions and provide more options for the public depositors. It is unclear what impact the bill will have on existing QPDs (banks, savings banks, or savings associations). The bill's impact on the private sector is indeterminate due to the number of variables involved in determining such impact.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The CFO has rulemaking authority to administer ch. 280, F.S.[25] In order to add credit unions as QPDs, rulemaking is necessary to amend ch. 69C-2, F.A.C., and several forms incorporated by reference in the rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DFS recommends that the effective date be changed to July 1, 2023.[26]

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[24] Office of Program Policy Analysis and Government Accountability, *Issues Related to Credit Unions Operating as Qualified Public Depositories*, Nov. 13, 2014, at 5.
[25] S. 280.19, F.S.
[26] Department of Financial Services, *supra* note 21.

A bill to be entitled

An act relating to public deposits; amending s. 17.68, F.S.; providing requirements for credit unions that are qualified public depositories; requiring the Department of Financial Services to provide its brochures to such credit unions upon request; amending s. 280.02, F.S.; revising definitions; amending s. 280.03, F.S.; providing that public deposits in credit unions by specified trust departments or trust companies are exempt from certain requirements and protection; creating s. 280.042, F.S.; prohibiting the Chief Financial Officer from designating credit unions as qualified public depositories unless certain requirements are met; requiring the Chief Financial Officer to withdraw from specified collateral agreements under certain circumstances; prohibiting credit unions from being designated as qualified public depositories if the Chief Financial Officer withdraws from collateral agreements; requiring specified credit unions to return all public deposits in the credit unions within a specified timeframe under certain circumstances; authorizing the Chief Financial Officer to limit the amount of public deposits in credit unions for a specified purpose; amending s. 280.05, F.S.; revising the losses for

which the Chief Financial Officer may sell securities to protect the integrity of the public deposits program; amending s. 280.052, F.S.; providing requirements for the suspension or disqualification of credit unions as qualified public depositories; amending s. 280.053, F.S.; authorizing credit unions to be reinstated, or to reapply for qualification, as qualified public depositories under specified circumstances; amending s. 280.055, F.S.; authorizing the Chief Financial Officer to issue a cease and desist order and a corrective order to credit unions upon certain determinations; providing penalties; amending s. 280.07, F.S.; specifying the losses against which certain solvent banks, savings banks, savings associations, and credit unions must guarantee public depositors; amending s. 280.08, F.S.; revising the Chief Financial Officer's procedures upon a default or insolvency of a qualified public depository; amending s. 280.085, F.S.; revising the exemptions to the notice to claimants upon a default or insolvency of a qualified public depository; amending s. 280.09, F.S.; requiring the Chief Financial Officer to segregate and separately account for certain proceeds, assessments, and administrative penalties; revising the payment of any losses to

public depositors; amending s. 280.10, F.S.; revising the duties and responsibilities of qualified public depositories as a result of specified mergers, acquisitions, or consolidations; amending s. 280.13, F.S.; providing that the limits imposed on specified securities apply to qualified public depositories, rather than to banks and savings associations; amending s. 280.17, F.S.; revising the evidence that public depositors must submit when a qualified public depository is in default or insolvent; reenacting ss. 17.57(7)(a), 24.114(1), 125.901(3)(e), 136.01, 159.608(11), 175.301, 175.401(8), 185.30, 185.50(8), 190.007(3), 191.006(16), 215.34(2), 218.415(16)(c), (17)(c), and (23)(a), 255.502(4)(h), 331.309(1) and (2), 373.553(2), 631.221, and 723.06115(3)(c), F.S., relating to deposits and investments of state money; bank deposits and control of lottery transactions; children's services and independent special districts; county depositories; powers of housing finance authorities; depositories for pension funds; retiree health insurance subsidies; depositories for retirement funds; retiree health insurance subsidies; board of supervisors; general powers; state funds and noncollectible items; local government investment policies; definitions; treasurer, depositories, and

fiscal agent; treasurer of the board, payment of funds, and depositories; deposit of moneys collected; and the Florida Mobile Home Relocation Trust Fund, respectively, to incorporate the amendments made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 17.68, Florida Statutes, is amended to read:

17.68 Financial Literacy Program for Individuals with Developmental Disabilities.—

(4) Within 90 days after the department establishes the website clearinghouse and publishes the brochure, each bank, credit union, savings association, and savings bank that is a qualified public depository as defined in s. 280.02 shall:

(a) Make copies of the department's brochures available, upon the request of the consumer, at its principal place of business and each branch office located in this state which has in-person teller services by having copies of the brochure available or having the capability to print a copy of the brochure from the department's website. Upon request, the department shall provide copies of the brochure to a bank, credit union, savings association, or savings bank.

(b) Provide on its website a hyperlink to the department's

website clearinghouse. If the department changes the website address for the clearinghouse, the bank, credit union, savings association, or savings bank must update the hyperlink within 90 days after notification by the department of such change.

Section 2. Subsections (6), (10), (21), (23), and (26) of section 280.02, Florida Statutes, are amended to read:

280.02 Definitions.—As used in this chapter, the term:

(6) "Capital account" or "tangible equity capital" means total equity capital, as defined on the balance-sheet portion of the Consolidated Reports of Condition and Income (call report), or net worth, as described in the National Credit Union Administration 5300 Call Report, less intangible assets, as submitted to the regulatory financial ~~banking~~ authority.

(10) "Custodian" means the Chief Financial Officer or a bank, credit union, savings association, or trust company that:

(a) Is organized and existing under the laws of this state, any other state, or the United States;

(b) Has executed all forms required under this chapter or any rule adopted hereunder;

(c) Agrees to be subject to the jurisdiction of the courts of this state, or of the courts of the United States which are located within this state, for the purpose of any litigation arising out of this chapter; and

(d) Has been approved by the Chief Financial Officer to act as a custodian.

(21) "Pool figure" means the total average monthly balances of public deposits held by all banks, savings banks, or savings associations or held separately by all credit unions ~~qualified public depositories~~ during the immediately preceding 12-month period.

(23) "Public deposit" means the moneys of the state or of any state university, county, school district, community college district, special district, metropolitan government, or municipality, including agencies, boards, bureaus, commissions, and institutions of any of the foregoing, or of any court, and includes the moneys of all county officers, including constitutional officers, which are placed on deposit in a bank, credit union, savings bank, or savings association. This includes, but is not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposit. Moneys in deposit notes and in other nondeposit accounts such as repurchase or reverse repurchase operations are not public deposits. Securities, mutual funds, and similar types of investments are not public deposits and are not subject to this chapter.

(26) "Qualified public depository" means a bank, credit union, savings bank, or savings association that:

(a) Is organized and exists under the laws of the United States, ~~or~~ the laws of this state, or the laws of any other state or territory of the United States.

(b) Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.

(c) Is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund ~~Has deposit insurance pursuant to the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss. 1811 et seq~~.

(d) Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits.

(e) Meets all the requirements of this chapter.

(f) Has been designated by the Chief Financial Officer as a qualified public depository.

Section 3. Paragraph (a) of subsection (3) of section 280.03, Florida Statutes, is amended to read:

280.03 Public deposits to be secured; prohibitions; exemptions.—

(3) The following are exempt from the requirements of, and protection under, this chapter:

(a) Public deposits deposited in a bank, credit union, or savings association by a trust department or trust company which are fully secured under trust business laws.

Section 4. Section 280.042, Florida Statutes, is created to read:

280.042 Credit union designations as qualified public depositories; withdrawal by the Chief Financial Officer from collateral agreements; limits on public deposits.—

(1) The Chief Financial Officer may not designate a credit union as a qualified public depository unless, at the time the credit union submits its agreement of contingent liability and its collateral agreement:

(a) The credit union submits a signed statement from a public depositor indicating that if the credit union is designated as a qualified public depository, the public depositor intends to deposit public funds with the credit union.

(b) The combined total of the numbers in subparagraphs 1. and 2. is at least four:

1. The number of credit unions designated as qualified public depositories.

2. The number of credit unions that meet all of the following requirements:

a. Apply to be designated as qualified public depositories.

b. Meet the requirements in paragraph (a).

(2) The Chief Financial Officer must withdraw from a collateral agreement previously entered into with a credit union if, during any 90 calendar days, the combined total of the number of credit unions designated as qualified public depositories and the number of eligible credit unions applying

to be designated as qualified public depositories is less than five.

(3) A credit union that is a party to a collateral agreement from which the Chief Financial Officer withdraws in accordance with subsection (2) may no longer be designated as a qualified public depository. Within 10 business days after the Chief Financial Officer notifies the credit union that the Chief Financial Officer has withdrawn from the collateral agreement, the credit union must return all public deposits that the credit union holds to the public depositor who deposited the funds. The notice provided for in this subsection may be sent to a credit union by regular mail or by e-mail.

(4) The Chief Financial Officer may limit the amount of public deposits that a credit union may hold in order to make sure that no single credit union holds an amount of public deposits that might adversely affect the integrity of the public deposits program.

Section 5. Subsection (11) of section 280.05, Florida Statutes, is amended to read:

280.05 Powers and duties of the Chief Financial Officer.—In fulfilling the requirements of this act, the Chief Financial Officer has the power to take the following actions he or she deems necessary to protect the integrity of the public deposits program:

(11) Sell securities for the purpose of paying losses to

public depositors not covered by deposit or share insurance.

Section 6. Subsection (1) of section 280.052, Florida Statutes, is amended to read:

280.052 Order of suspension or disqualification; procedure.—

(1) The suspension or disqualification of a bank, credit union, or savings association as a qualified public depository must be by order of the Chief Financial Officer and must be mailed to the qualified public depository by registered or certified mail.

Section 7. Paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of section 280.053, Florida Statutes, are amended to read:

280.053 Period of suspension or disqualification; obligations during period; reinstatement.—

(1)

(c) Upon expiration of the suspension period, the bank, credit union, or savings association may, by order of the Chief Financial Officer, be reinstated as a qualified public depository, unless the cause of the suspension has not been corrected or the bank, credit union, or savings association is otherwise not in compliance with this chapter or any rule adopted pursuant to this chapter.

(2)

(c) Upon expiration of the disqualification period, the

bank, credit union, or savings association may reapply for qualification as a qualified public depository. If a disqualified bank, credit union, or savings association is purchased or otherwise acquired by new owners, it may reapply to the Chief Financial Officer to be a qualified public depository before ~~prior to~~ the expiration date of the disqualification period. Redesignation as a qualified public depository may occur only after the Chief Financial Officer has determined that all requirements for holding public deposits under the law have been met.

Section 8. Section 280.055, Florida Statutes, is amended to read:

280.055 Cease and desist order; corrective order; administrative penalty.—

(1) The Chief Financial Officer may issue a cease and desist order and a corrective order upon determining that:

(a) A qualified public depository has requested and obtained a release of pledged collateral without approval of the Chief Financial Officer;

(b) A bank, credit union, savings association, or other financial institution is holding public deposits without a certificate of qualification issued by the Chief Financial Officer;

(c) A qualified public depository pledges, deposits, or arranges for the issuance of unacceptable collateral;

(d) A custodian has released pledged collateral without approval of the Chief Financial Officer;

(e) A qualified public depository or a custodian has not furnished to the Chief Financial Officer, when the Chief Financial Officer requested, a power of attorney or bond power or bond assignment form required by the bond agent or bond trustee for each issue of registered certificated securities pledged and registered in the name, or nominee name, of the qualified public depository or custodian; or

(f) A qualified public depository; a bank, credit union, savings association, or other financial institution; or a custodian has committed any other violation of this chapter or any rule adopted pursuant to this chapter that the Chief Financial Officer determines may be remedied by a cease and desist order or corrective order.

(2) Any qualified public depository or other bank, credit union, savings association, or financial institution or custodian that violates a cease and desist order or corrective order of the Chief Financial Officer is subject to an administrative penalty not exceeding $1,000 for each violation of the order. Each day the violation of the order continues constitutes a separate violation.

Section 9. Section 280.07, Florida Statutes, is amended to read:

280.07 Mutual responsibility and contingent liability.—

(1) A ~~Any~~ bank, savings bank, or savings association that is designated as a qualified public depository and that is not insolvent shall guarantee public depositors against loss caused by the default or insolvency of other banks, savings banks, or savings associations that are designated as qualified public depositories.

(2) A credit union that is designated as a qualified public depository and that is not insolvent shall guarantee public depositors against loss caused by the default or insolvency of other credit unions that are designated as qualified public depositories.

Each qualified public depository shall execute a form prescribed by the Chief Financial Officer for such guarantee which must ~~shall~~ be approved by the board of directors and must ~~shall~~ become an official record of the institution.

Section 10. Subsections (1) and (3) of section 280.08, Florida Statutes, are amended to read:

280.08 Procedure for payment of losses.—When the Chief Financial Officer determines that a default or insolvency has occurred, he or she shall provide notice as required in s. 280.085 and implement the following procedures:

(1) The Division of Treasury, in cooperation with the Office of Financial Regulation of the Financial Services Commission or the receiver of the qualified public depository in

default, shall ascertain the amount of funds of each public depositor on deposit at such depository and the amount of deposit or share insurance applicable to such deposits.

(3)(a) The loss to public depositors shall be satisfied, insofar as possible, first through any applicable deposit or share insurance and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting depository. The Chief Financial Officer may assess qualified public depositories as provided in paragraph (b), subject to the segregation of contingent liability in s. 280.07, for the total loss if the demand for payment or sale of collateral cannot be accomplished within 7 business days.

(b) The Chief Financial Officer shall provide coverage of any remaining loss by assessment against the other qualified public depositories. The Chief Financial Officer shall determine such assessment for each qualified public depository by multiplying the total amount of any remaining loss to all public depositors by a percentage which represents the average monthly balance of public deposits held by each qualified public depository during the previous 12 months divided by the total average monthly balances of public deposits held by all qualified public depositories, excluding the defaulting depository, during the same period. The assessment calculation must ~~shall~~ be computed to six decimal places.

Section 11. Subsection (4) of section 280.085, Florida

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Statutes, is amended, and subsection (1) of that section is republished, to read:

280.085 Notice to claimants.—

(1) Upon determining the default or insolvency of a qualified public depository, the Chief Financial Officer shall notify, by first-class mail, all public depositors that have complied with s. 280.17 of such default or insolvency. The notice must direct all public depositors having claims or demands against the Public Deposits Trust Fund occasioned by the default or insolvency to file their claims with the Chief Financial Officer within 30 days after the date of the notice.

(4) The notice required in subsection (1) is not required if the default or insolvency of a qualified public depository is resolved in a manner in which all Florida public deposits are acquired by another insured bank, credit union, savings bank, or savings association.

Section 12. Section 280.09, Florida Statutes, is amended to read:

280.09 Public Deposits Trust Fund.—

(1) In order to facilitate the administration of this chapter, there is created the Public Deposits Trust Fund, hereafter in this section designated "the fund." The proceeds from the sale of securities or draw on letters of credit held as collateral or from any assessment pursuant to s. 280.08 must ~~shall~~ be deposited into the fund. The Chief Financial Officer

must segregate and separately account for any collateral proceeds, assessments, or administrative penalties attributable to a credit union from any collateral proceeds, assessments, or administrative penalties attributable to any bank, savings bank, or savings association. Any administrative penalty collected pursuant to this chapter shall be deposited into the Treasury Administrative and Investment Trust Fund.

(2) The Chief Financial Officer is authorized to pay any losses to public depositors from the fund, subject to the limitations provided in subsection (1), and there are hereby appropriated from the fund such sums as may be necessary from time to time to pay the losses. The term "losses," for purposes of this chapter, must ~~shall~~ also include losses of interest or other accumulations to the public depositor as a result of penalties for early withdrawal required by Depository Institution Deregulatory Commission Regulations or applicable successor federal laws or regulations because of suspension or disqualification of a qualified public depository by the Chief Financial Officer pursuant to s. 280.05 or because of withdrawal from the public deposits program pursuant to s. 280.11. In that event, the Chief Financial Officer is authorized to assess against the suspended, disqualified, or withdrawing public depository, in addition to any amount authorized by any other provision of this chapter, an administrative penalty equal to the amount of the early withdrawal penalty and to pay that

amount over to the public depositor as reimbursement for such loss. Any money in the fund estimated not to be needed for immediate cash requirements shall be invested pursuant to s. 17.61.

Section 13. Subsections (1) and (3) of section 280.10, Florida Statutes, are amended to read:

280.10 Effect of merger, acquisition, or consolidation; change of name or address.—

(1) When a qualified public depository is merged into, acquired by, or consolidated with a bank, credit union, savings bank, or savings association that is not a qualified public depository:

(a) The resulting institution shall automatically become a qualified public depository subject to the requirements of the public deposits program.

(b) The contingent liability of the former institution shall be a liability of the resulting institution.

(c) The public deposits and associated collateral of the former institution shall be public deposits and collateral of the resulting institution.

(d) The resulting institution shall, within 90 calendar days after the effective date of the merger, acquisition, or consolidation, deliver to the Chief Financial Officer:

1. Documentation in its name as required for participation in the public deposits program; or

2. Written notice of intent to withdraw from the program as provided in s. 280.11 and a proposed effective date of withdrawal which shall be within 180 days after the effective date of the acquisition, merger, or consolidation of the former institution.

(e) If the resulting institution does not meet qualifications to become a qualified public depository or does not submit required documentation within 90 calendar days after the effective date of the merger, acquisition, or consolidation, the Chief Financial Officer shall initiate mandatory withdrawal actions as provided in s. 280.11 and shall set an effective date of withdrawal that is within 180 days after the effective date of the acquisition, merger, or consolidation of the former institution.

(3) If the default or insolvency of a qualified public depository results in acquisition of all or part of its Florida public deposits by a bank, credit union, savings bank, or savings association that is not a qualified public depository, the bank, credit union, savings bank, or savings association acquiring the Florida public deposits is subject to subsection (1).

Section 14. Subsection (1) of section 280.13, Florida Statutes, is amended to read:

280.13 Eligible collateral.—

(1) Securities eligible to be pledged as collateral by

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qualified public depositories ~~banks and savings associations~~ shall be limited to:

(a) Direct obligations of the United States Government.

(b) Obligations of any federal agency that are fully guaranteed as to payment of principal and interest by the United States Government.

(c) Obligations of the following federal agencies:

1. Farm credit banks.

2. Federal land banks.

3. The Federal Home Loan Bank and its district banks.

4. Federal intermediate credit banks.

5. The Federal Home Loan Mortgage Corporation.

6. The Federal National Mortgage Association.

7. Obligations guaranteed by the Government National Mortgage Association.

(d) General obligations of a state of the United States, or of Puerto Rico, or of a political subdivision or municipality thereof.

(e) Obligations issued by the Florida State Board of Education under authority of the State Constitution or applicable statutes.

(f) Tax anticipation certificates or warrants of counties or municipalities having maturities not exceeding 1 year.

(g) Public housing authority obligations.

(h) Revenue bonds or certificates of a state of the United

States or of a political subdivision or municipality thereof.

(i) Corporate bonds of any corporation that is not an affiliate or subsidiary of the qualified public depository.

Section 15. Paragraph (b) of subsection (4) of section 280.17, Florida Statutes, is amended to read:

280.17 Requirements for public depositors; notice to public depositors and governmental units; loss of protection.—In addition to any other requirement specified in this chapter, public depositors shall comply with the following:

(4) If public deposits are in a qualified public depository that has been declared to be in default or insolvent, each public depositor shall:

(b) Submit to the Chief Financial Officer for each public deposit, within 30 days after the date of official notification from the Chief Financial Officer, the following:

1. A claim form and agreement, as prescribed by the Chief Financial Officer, executed under oath, accompanied by proof of authority to execute the form on behalf of the public depositor.

2. A completed public deposit identification and acknowledgment form, as described in subsection (2).

3. Evidence of the insurance afforded the deposit pursuant to the Federal Deposit Insurance Act or the Federal Credit Union Act, as appropriate.

Section 16. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a

reference thereto, paragraph (a) of subsection (7) of section 17.57, Florida Statutes, is reenacted to read:

17.57 Deposits and investments of state money.—

(7) In addition to the deposits authorized under this section and notwithstanding any other provisions of law, funds that are not needed to meet the disbursement needs of the state may be deposited by the Chief Financial Officer in accordance with the following conditions:

(a) The funds are initially deposited in a qualified public depository, as defined in s. 280.02, selected by the Chief Financial Officer.

Section 17. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, subsection (1) of section 24.114, Florida Statutes, is reenacted to read:

24.114 Bank deposits and control of lottery transactions.—

(1) All moneys received by each retailer from the operation of the state lottery, including, but not limited to, all ticket sales, interest, gifts, and donations, less the amount retained as compensation for the sale of the tickets and the amount paid out as prizes, shall be remitted to the department or deposited in a qualified public depository, as defined in s. 280.02, as directed by the department. The department shall have the responsibility for all administrative functions related to the receipt of funds. The department may

also require each retailer to file with the department reports of the retailer's receipts and transactions in the sale of lottery tickets in such form and containing such information as the department may require. The department may require any person, including a qualified public depository, to perform any function, activity, or service in connection with the operation of the lottery as it may deem advisable pursuant to this act and rules of the department, and such functions, activities, or services shall constitute lawful functions, activities, and services of such person.

Section 18. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, paragraph (e) of subsection (3) of section 125.901, Florida Statutes, is reenacted to read:

125.901 Children's services; independent special district; council; powers, duties, and functions; public records exemption.—

(3)

(e)1. All moneys received by the council on children's services shall be deposited in qualified public depositories, as defined in s. 280.02, with separate and distinguishable accounts established specifically for the council and shall be withdrawn only by checks signed by the chair of the council and countersigned by either one other member of the council on children's services or by a chief executive officer who shall be

so authorized by the council.

2. Upon entering the duties of office, the chair and the other member of the council or chief executive officer who signs its checks shall each give a surety bond in the sum of at least $1,000 for each $1 million or portion thereof of the council's annual budget, which bond shall be conditioned that each shall faithfully discharge the duties of his or her office. The premium on such bond may be paid by the district as part of the expense of the council. No other member of the council shall be required to give bond or other security.

3. No funds of the district shall be expended except by check as aforesaid, except expenditures from a petty cash account which shall not at any time exceed $100. All expenditures from petty cash shall be recorded on the books and records of the council on children's services. No funds of the council on children's services, excepting expenditures from petty cash, shall be expended without prior approval of the council, in addition to the budgeting thereof.

Section 19. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, section 136.01, Florida Statutes, is reenacted to read:

136.01 County depositories.—Each county depository shall be a qualified public depository as defined in s. 280.02 for the following funds: county funds; funds of all county officers,

including constitutional officers; funds of the school board; and funds of the community college district board of trustees. This enumeration of funds is made not by way of limitation, but of illustration; and it is the intent hereof that all funds of the county, the board of county commissioners or the several county officers, the school board, or the community college district board of trustees be included.

Section 20. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, subsection (11) of section 159.608, Florida Statutes, is reenacted to read:

159.608 Powers of housing finance authorities.—A housing finance authority shall constitute a public body corporate and politic, exercising the public and essential governmental functions set forth in this act, and shall exercise its power to borrow only for the purpose as provided herein:

(11) To invest and reinvest surplus funds of the housing finance authority in accordance with s. 218.415. However, in addition to the investments expressly authorized in s. 218.415(16)(a)-(g) and (17)(a)-(d), a housing finance authority may invest surplus funds in interest-bearing time deposits or savings accounts that are fully insured by the Federal Deposit Insurance Corporation regardless of whether the bank or financial institution in which the deposit or investment is made is a qualified public depository as defined in s. 280.02. This

subsection is supplementary to and may not be construed as limiting any powers of a housing finance authority or providing or implying a limiting construction of any other statutory provision.

Section 21. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, section 175.301, Florida Statutes, is reenacted to read:

175.301 Depository for pension funds.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, all funds of the firefighters' pension trust fund of any chapter plan or local law plan under this chapter may be deposited by the board of trustees with the treasurer of the municipality or special fire control district, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality or special fire control district. However, any funds so deposited with the treasurer of the municipality or special fire control district shall be kept in a separate fund by the treasurer or clearly identified as such funds of the firefighters' pension trust fund. In lieu thereof, the board of trustees shall deposit the funds of the firefighters' pension trust fund in a qualified public depository as defined in s.

280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of chapter 280.

Section 22. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in references thereto, subsection (8) of section 175.401, Florida Statutes, is reenacted to read:

175.401 Retiree health insurance subsidy.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. In addition, special fire control districts may, by resolution, establish and administer locally funded health insurance subsidy programs. Pursuant thereto:

(8) DEPOSIT OF HEALTH INSURANCE SUBSIDY FUNDS.—All funds of the health insurance subsidy fund may be deposited by the board of trustees with the treasurer of the municipality or special fire control district, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality or special fire control district. Any funds so deposited shall be segregated by the treasurer in a separate fund, clearly identified as funds of the health insurance

subsidy fund. In lieu thereof, the board of trustees shall deposit the funds of the health insurance subsidy fund in a qualified public depository as defined in s. 280.02, which shall conform to and be bound by the provisions of chapter 280 with regard to such funds. In no case shall the funds of the health insurance subsidy fund be deposited in any financial institution, brokerage house trust company, or other entity that is not a public depository as provided by s. 280.02.

Section 23. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, section 185.30, Florida Statutes, is reenacted to read:

185.30 Depository for retirement fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, all funds of the municipal police officers' retirement trust fund of any municipality, chapter plan, local law municipality, or local law plan under this chapter may be deposited by the board of trustees with the treasurer of the municipality acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality. However, any funds so deposited with the treasurer of the municipality shall be kept in a separate fund by the municipal treasurer or clearly identified as such funds of the municipal police officers' retirement trust fund. In lieu

thereof, the board of trustees shall deposit the funds of the municipal police officers' retirement trust fund in a qualified public depository as defined in s. 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of chapter 280.

Section 24. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in references thereto, subsection (8) of section 185.50, Florida Statutes, is reenacted to read:

185.50 Retiree health insurance subsidy.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. Pursuant thereto:

(8) DEPOSIT OF PENSION FUNDS.—All funds of the health insurance subsidy fund may be deposited by the board of trustees with the treasurer of the municipality, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the municipality. Any funds so deposited shall be segregated by said treasurer in a separate fund, clearly identified as funds of the health insurance subsidy fund. In lieu thereof, the board of trustees shall deposit the funds of the health

insurance subsidy fund in a qualified public depository as defined in s. 280.02, which shall conform to and be bound by the provisions of chapter 280 with regard to such funds. In no case shall the funds of the health insurance subsidy fund be deposited in any financial institution, brokerage house trust company, or other entity that is not a public depository as provided by s. 280.02.

Section 25. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, subsection (3) of section 190.007, Florida Statutes, is reenacted to read:

190.007 Board of supervisors; general duties.—

(3) The board is authorized to select as a depository for its funds any qualified public depository as defined in s. 280.02 which meets all the requirements of chapter 280 and has been designated by the Chief Financial Officer as a qualified public depository, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

Section 26. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, subsection (16) of section 191.006, Florida Statutes, is reenacted to read:

191.006 General powers.—The district shall have, and the board may exercise by majority vote, the following powers:

(16) To select as a depository for its funds any qualified public depository as defined in s. 280.02 which meets all the requirements of chapter 280 and has been designated by the Chief Financial Officer as a qualified public depository, upon such terms and conditions as to the payment of interest upon the funds deposited as the board deems just and reasonable.

Section 27. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, subsection (2) of section 215.34, Florida Statutes, is reenacted to read:

215.34 State funds; noncollectible items; procedure.—

(2) Whenever a check, draft, or other order for the payment of money is returned by the Chief Financial Officer, or by a qualified public depository as defined in s. 280.02, to a state officer, a state agency, or the judicial branch for collection, the officer, agency, or judicial branch shall add to the amount due a service fee of $15 or 5 percent of the face amount of the check, draft, or order, whichever is greater. An agency or the judicial branch may adopt a rule which prescribes a lesser maximum service fee, which shall be added to the amount due for the dishonored check, draft, or other order tendered for a particular service, license, tax, fee, or other charge, but in no event shall the fee be less than $15. The service fee shall be in addition to all other penalties imposed by law, except that when other charges or penalties are imposed by an agency

related to a noncollectible item, the amount of the service fee shall not exceed $150. Proceeds from this fee shall be deposited in the same fund as the collected item. Nothing in this section shall be construed as authorization to deposit moneys outside the State Treasury unless specifically authorized by law.

Section 28. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in references thereto, paragraph (c) of subsection (16), paragraph (c) of subsection (17), and paragraph (a) of subsection (23) of section 218.415, Florida Statutes, are reenacted to read:

218.415 Local government investment policies.—Investment activity by a unit of local government must be consistent with a written investment plan adopted by the governing body, or in the absence of the existence of a governing body, the respective principal officer of the unit of local government and maintained by the unit of local government or, in the alternative, such activity must be conducted in accordance with subsection (17). Any such unit of local government shall have an investment policy for any public funds in excess of the amounts needed to meet current expenses as provided in subsections (1)-(16), or shall meet the alternative investment guidelines contained in subsection (17). Such policies shall be structured to place the highest priority on the safety of principal and liquidity of funds. The optimization of investment returns shall be secondary to the requirements for safety and liquidity. Each unit of local

government shall adopt policies that are commensurate with the nature and size of the public funds within its custody.

(16) AUTHORIZED INVESTMENTS; WRITTEN INVESTMENT POLICIES.—Those units of local government electing to adopt a written investment policy as provided in subsections (1)-(15) may by resolution invest and reinvest any surplus public funds in their control or possession in:

(c) Interest-bearing time deposits or savings accounts in qualified public depositories as defined in s. 280.02.

(17) AUTHORIZED INVESTMENTS; NO WRITTEN INVESTMENT POLICY.—Those units of local government electing not to adopt a written investment policy in accordance with investment policies developed as provided in subsections (1)-(15) may invest or reinvest any surplus public funds in their control or possession in:

(c) Interest-bearing time deposits or savings accounts in qualified public depositories, as defined in s. 280.02.

The securities listed in paragraphs (c) and (d) shall be invested to provide sufficient liquidity to pay obligations as they come due.

(23) AUTHORIZED DEPOSITS.—In addition to the investments authorized for local governments in subsections (16) and (17) and notwithstanding any other provisions of law, a unit of local government may deposit any portion of surplus public funds in

its control or possession in accordance with the following conditions:

(a) The funds are initially deposited in a qualified public depository, as defined in s. 280.02, selected by the unit of local government.

Section 29. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, paragraph (h) of subsection (4) of section 255.502, Florida Statutes, is reenacted to read:

255.502 Definitions; ss. 255.501-255.525.—As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

(4) "Authorized investments" means and includes without limitation any investment in:

(h) Savings accounts in, or certificates of deposit of, qualified public depositories as defined in s. 280.02, in an amount that does not exceed 15 percent of the net worth of the institution, or a lesser amount as determined by rule by the State Board of Administration, provided such savings accounts and certificates of deposit are secured in the manner prescribed in chapter 280.

Investments in any security authorized in this subsection may be under repurchase agreements or reverse repurchase agreements.

Section 30. For the purpose of incorporating the amendment

made by this act to section 280.02, Florida Statutes, in references thereto, subsections (1) and (2) of section 331.309, Florida Statutes, are reenacted to read:

331.309 Treasurer; depositories; fiscal agent.—

(1) The board shall designate an individual who is a resident of the state, or a qualified public depository as defined in s. 280.02, as treasurer of Space Florida, who shall have charge of the funds of Space Florida. Such funds shall be disbursed only upon the order of or pursuant to the resolution of the board by warrant, check, authorization, or direct deposit pursuant to s. 215.85, signed or authorized by the treasurer or his or her representative or by such other persons as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and shall establish the treasurer's compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The board shall audit or have audited the books of the treasurer at least once a year.

(2) The board is authorized to select as depositories in which the funds of the board and of Space Florida shall be deposited any qualified public depository as defined in s. 280.02, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the

board may deem just and reasonable. The funds of Space Florida may be kept in or removed from the State Treasury upon written notification from the chair of the board to the Chief Financial Officer.

Section 31. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, subsection (2) of section 373.553, Florida Statutes, is reenacted to read:

373.553 Treasurer of the board; payment of funds; depositories.—

(2) The board is authorized to select as depositories in which the funds of the board and of the district shall be deposited in any qualified public depository as defined in s. 280.02, and such deposits shall be secured in the manner provided in chapter 280.

Section 32. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, section 631.221, Florida Statutes, is reenacted to read:

631.221 Deposit of moneys collected.—The moneys collected by the department in a proceeding under this chapter shall be deposited in a qualified public depository as defined in s. 280.02, which depository with regards to such funds shall conform to and be bound by all the provisions of chapter 280, or invested with the Chief Financial Officer pursuant to chapter

18. For the purpose of accounting for the assets and transactions of the estate, the receiver shall use such accounting books, records, and systems as the court directs after it hears and considers the recommendations of the receiver.

Section 33. For the purpose of incorporating the amendment made by this act to section 280.02, Florida Statutes, in a reference thereto, paragraph (c) of subsection (3) of section 723.06115, Florida Statutes, is reenacted to read:

723.06115 Florida Mobile Home Relocation Trust Fund.—

(3) The department shall distribute moneys in the Florida Mobile Home Relocation Trust Fund to the Florida Mobile Home Relocation Corporation in accordance with the following:

(c) Funds transferred from the trust fund to the corporation shall be transferred electronically and shall be transferred to and maintained in a qualified public depository as defined in s. 280.02 which is specified by the corporation.

Section 34. This act shall take effect July 1, 2022.