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Referred: Special Monetary
Investment Committee and
Finance

IN THE HOUSE

BY RETTIG

HOUSE BILL NO. 681

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the protection of state deposits."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 37 is amended by adding a new chapter to read:

CHAPTER 12. STATE DEPOSIT PROTECTION.

Sec. 37.12.010. PURPOSE. After the effective date of this Act, state deposits in qualified state depositories, including investment deposits, are protected against loss, as provided in this chapter.

Sec. 37.12.020. STATE DEPOSIT PROTECTION COMMISSION. The state deposit protection commission is the state bond committee.

Sec. 37.12.030. POWERS OF THE COMMISSION. (a) The commission may

(1) promulgate and enforce regulations necessary to carry out the purposes of this chapter;

(2) require a qualified state depository to furnish information dealing with state deposits and related matters;

(3) take such action as it considers best for the protection collection, compromise or settlement of a claim arising in case of loss;

(4) promulgate regulations, subject to this chapter, fixing the requirements for qualification of banks as state depositories, and fixing other terms and conditions consistent with this chapter, under which state deposits may be received and held;

(5) fix the official date on which a loss is considered to have occurred taking into consideration the orders, rules and

1 regulations of supervisory authority as they affect the failure or
2 inability of a qualified state depository to repay state deposits in
full; and

3 (6) in case loss occurs in more than one qualified state
4 depository, determine the allocation method and time of payment of sums
5 due the state under this chapter.

6 (b) A state depository which refuses or neglects to give infor-
7 mation requested under (a)(2) and (4) of this section is no longer
8 qualified to be a state depository and is excluded from the right to
9 receive state deposits until the commission acknowledges that the
10 depository has furnished the information requested.

11 Sec. 37.12.040. RECORD OF COMMISSION PROCEEDINGS. The record of
12 the proceedings of the commission shall be kept in the office of the
13 commission secretary and a certified copy of it, or any part of it,
14 is admissible in evidence in an action or proceeding in any court of
15 this state.

16 Sec. 37.12.050. DEPOSIT OF STATE FUNDS. No state deposit may
17 be made except in a qualified state depository in the state.

18 Sec. 37.12.060. QUALIFIED STATE DEPOSITARIES. A national or
19 state banking corporation, or other incorporated bank, or branch banks,
20 or savings and loan associations authorized to do business in the
21 state and approved by the commission, may, upon segregating security
22 as provided for in sec. 70 of this chapter, become a qualified state
23 depository.

24 Sec. 37.12.070. COLLATERAL FOR STATE DEPOSITS. A qualified
25 state depository shall at all times maintain, segregated from its
26 other assets, eligible collateral having a value at least equal to its
27 maximum liability as defined in sec. 150(5) of this chapter. This
28 collateral may be segregated by deposit in the trust department of the
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1 depository or in any other manner approved by the commission and shall
2 be clearly designated as security for state deposits. Collateral
3 eligible as security shall be valued at face value or market value as
4 determined by the commission. The depository has the right to make
5 substitutions of eligible collateral at any time. The income from
6 the assets which constitute segregated collateral belongs to the
7 depository bank without restriction.

8 Sec. 37.12.080. SEGREGATION OF SECURITIES. Before a qualified
9 state depository may receive state money, it shall segregate securities
10 set out in this section as collateral and pledge such for payment of
11 all money deposited with it and of interest on any portion of the money
12 representing investment deposits at the rate fixed by the commission,
13 if there has been no default in the payment of principal or interest
14 on it. Securities to be segregated are

15 (1) bonds, notes, or other securities constituting direct
16 and general obligations of the United States or the bonds, notes, or
17 other securities constituting the direct and general obligation of an
18 instrumentality of the United States, the interest and principal of
19 which is unconditionally guaranteed by the United States;

20 (2) direct and general obligation bonds and warrants of
21 this or any other state of the United States;

22 (3) revenue bonds of this state or an authority, board,
23 commission, committee, or similar agency of the state;

24 (4) general obligation bonds, notes and other evidences of
25 debt of a political subdivision of the state having the power to levy
26 general taxes, which are payable from ad valorem taxes and bonds, notes
27 and other evidences of debt of a public corporation and instrumentality
28 of the state.

29 Sec. 37.12.090. APPROVAL OF COLLATERAL. The commission may not

1 approve the bonds, warrants, notes and other evidences of debt until
2 fully satisfied that they are good and sufficient, and that the
3 depository is prosperous and financially sound, meets the qualification
4 requirements of a state depository and has unimpaired the paid-up
5 capital and surplus claimed by it.

6 Sec. 37.12.100. REPORTS. (a) On each call report date, all
7 qualified state depositories shall submit to the commission a written
8 report, certified under oath, containing such information as the com-
9 mission may require, including the amount and nature of the eligible
10 collateral segregated and designated for the deposits as provided for
11 in sec. 70 of this chapter. The commission may instruct the director
12 of banking to certify as to segregation of securities by state
13 depositories.

14 (b) A person who makes a false statement in an affidavit required
15 by this section is guilty of perjury.

16 Sec. 37.12.110. DEPOSITS MADE BY THE TREASURER. (a) The treas-
17 urer may deposit in investment deposits in a qualified state depository
18 state funds available for investment and secured by collateral in
19 accordance with the provisions of sec. 70 of this chapter, and receive
20 interest on them. However, in no case shall deposits of state funds
21 by the treasurer in any one bank or trust company or savings and loan
22 association exceed at any one time one third of all other deposits of
23 the depository or thirty per cent of state deposits in all state
24 depositories.

25 (b) The treasurer may deposit with a qualified state depository
26 which has fully complied with this chapter and the regulations of the
27 commission state money under his official control and this sum on
28 deposit is considered to be in the state treasury. The treasurer is
29 not liable for the loss of deposits made in accordance with this section

1 which result from the failure or default of a depository without fault
2 or neglect on his part or on the part of a person under this super-
3 vision.

4 Sec. 37.12.120. INTEREST RATE ON DEPOSITS. (a) The state deposit
5 protection commission shall from time to time fix the rate of interest
6 to be paid by qualified state depositories upon investment deposits.

7 (b) The total interest paid by the depositories shall be placed
8 by the treasurer to the credit of the appropriate account or fund.

9 Sec. 37.12.130. REIMBURSEMENT PROCEDURE UPON LOSS. When the
10 commission determines that a loss has occurred, it shall as soon as
11 possible make appropriate payment to the proper funds or accounts in
12 accordance to the following procedure:

13 (1) For the purposes of determining the sums to be paid,
14 the director of banking or receiver shall, within 20 days after the
15 issuance of a restraining order or taking possession of a qualified
16 state depository, ascertain the amount of state funds on deposit in
17 it as disclosed by its records and the amount of state funds covered
18 by deposit insurance and certify these amounts to the treasurer.

19 (2) Within 10 days after receipt of the certification, the
20 treasurer shall furnish to the commission verified statements of its
21 deposits in the depository as disclosed by its records.

22 (3) When the commission receives the certificate and
23 statements, it shall ascertain and fix the amount of the state deposits,
24 net after the deduction of deposit insurance, and assess that amount
25 against all of the qualified state depositories, as follows:

26 (A) first, against the depository in which the loss
27 occurred, to the extent of the full value of collateral segregated
28 as provided for under sec. 70 of this chapter; and

29 (B) second, against all other qualified state

1 depositories in proportion to their maximum liability.

2 (4) Assessments made by the commission are payable on the
3 second business day following demand, and in case of the failure of a
4 qualified state depository to pay on time, the commission shall immedi-
5 ately take possession of the eligible collateral segregated by the
6 depository as provided for by sec. 70 of this chapter and liquidate
7 it for the purpose of paying the assessment.

8 (5) When the commission receives the assessment payments,
9 it shall reimburse the treasurer to the extent of the state's deposits
10 in the state depository.

11 Sec. 37.12.140. INVESTIGATIONS AND REPORTS. The commission may
12 require the director of banking to thoroughly investigate and report
13 to it concerning the condition of a bank which makes application to
14 become a qualified state depository for state funds, and may also
15 require the investigation and report concerning the condition of a
16 bank which has been designated as a depository, the expense of the
17 investigation to be paid by the depository examined.

18 Sec. 37.12.150. DEFINITIONS. In this chapter

19 (1) "commission" means the state deposit protection com-
20 mission;

21 (2) "eligible collateral" means collateral which is eligible
22 as security for state deposits;

23 (3) "investment deposits" means bank time deposits of state
24 funds available for investment;

25 (4) "loss" means issuance of an order of supervisory
26 authority restraining a qualified state depository from making payments
27 of deposit liabilities or the appointment of a receiver for a qualified
28 state depository;

29 (5) "maximum liability" of a qualified state depository

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means a sum equal to 30 per cent of the aggregate of all state deposits held by the qualified state depository;

(6) "qualified state depository" means a state bank or trust company or national banking association or savings and loan association located in this state which receives or holds state deposits and segregates eligible collateral for state deposits as described in sec. 60 of this chapter;

(7) "state deposit" means money of the state deposited in qualified state depository;

(8) "treasurer" means the state treasurer.