

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 635
96TH GENERAL ASSEMBLY

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

TERRY L. SPIELER, Secretary.

5139S.02C

AN ACT

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

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

Section A. Section 30.270, RSMo, is repealed and one new section enacted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

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

10 (1) Bonds or other obligations of the United States;

11 (2) Bonds or other obligations of the state of Missouri including revenue
12 bonds issued by state agencies or by state authorities created by legislative
13 enactment;

14 (3) Bonds or other obligations of any city in this state having a population
15 of not less than two thousand;

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

17 (5) Approved registered bonds or other obligations of any school district,
18 including certificates of participation and leasehold revenue bonds, situated in

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

19 this state;

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

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

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

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

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

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

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

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

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

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

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

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

54 b. Are offered by a financial institution in which a senior executive officer

55 certifies under penalty of perjury that such loans are compliant with the
56 requirements of the Federal Home Loan Bank of Des Moines, Iowa, when such
57 loans are pledged by such bank;

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

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

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

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

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

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

91 of chapter 110 to the contrary;

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

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

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

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

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

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

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

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

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

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

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

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

✓