

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

P.L.2011, CHAPTER 108, *approved August 18, 2011*
Senate, No. 1807 (*Second Reprint*)

1 AN ACT authorizing credit unions to serve as public depositories
2 and amending ²and supplementing² P.L.1970, c.236 and
3 ²amending² P.L.1984, c.171.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1970, c.236 (C.17:9-41) is amended to read
9 as follows:

10 1. In this act, unless the context otherwise requires:

11 "Adequately capitalized" means, with respect to a public
12 depository, "adequately capitalized" as the term is defined in
13 subsection (b) of section 38 of the "Federal Deposit Insurance Act,"
14 Pub.L.81-797 (12 U.S.C. s.1831o(b)), ¹or subsection (c) of section
15 216 of title II of the "Federal Credit Union Act," Pub.L.73-467 (12
16 U.S.C. s.1790d(c)), as applicable,¹ and ¹**[its] their¹** implementing
17 regulations;

18 "Association" means any State or federally chartered savings and
19 loan association;

20 "Capital funds" means (a) in the case of a State bank or national
21 bank or capital stock savings bank, the aggregate of the capital
22 stock, surplus and undivided profits of the bank or savings bank; (b)
23 in the case of a mutual savings bank, the aggregate of the capital
24 deposits, if any, and the surplus of the savings bank; **[and]** (c) in
25 the case of an association, the aggregate of all reserves required by
26 any law or regulation, and the undivided profits, if any, of the
27 association; and (d) in the case of a credit union, the aggregate of
28 all reserves required by any law or regulation, and the capital
29 deposits of the credit union;

30 "Commissioner" means the Commissioner of Banking and
31 Insurance;

32 "Credit union" means a credit union as defined by section 2 of
33 P.L.1984, c.171 (C.17:13-80);

34 "Critically undercapitalized" means, with respect to a public
35 depository, "critically undercapitalized" as the term is defined in
36 subsection (b) of section 38 of the "Federal Deposit Insurance Act,"
37 Pub.L.81-797 (12 U.S.C. s.1831o(b)), ¹or subsection (c) of section
38 216 of title II of the "Federal Credit Union Act," Pub.L.73-467 (12

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted May 27, 2010.

²Assembly AFI committee amendments adopted June 16, 2011.

1 U.S.C. s.1790d(c)), as applicable,¹ and ¹['its] their¹ implementing

2 regulations;

3 "Defaulting depository" means a public depository as to which

4 an event of default has occurred;

5 "Eligible collateral" means:

6 (a) Obligations of any of the following:

7 (1) The United States;

8 (2) Any agency or instrumentality of the United States,

9 including, but not limited to, the Student Loan Marketing

10 Association, the Government National Mortgage Association, the

11 Federal Home Loan Mortgage Corporation, the Federal National

12 Mortgage Association, the Federal Housing Administration and the

13 Small Business Administration;

14 (3) The State of New Jersey or any of its political subdivisions;

15 (4) Any other governmental unit; or

16 (b) Obligations guaranteed or insured by any of the following,

17 to the extent of that insurance or guaranty:

18 (1) The United States;

19 (2) Any agency or instrumentality of the United States,

20 including, but not limited to, the Student Loan Marketing

21 Association, the Government National Mortgage Association, the

22 Federal Home Loan Mortgage Corporation, the Federal National

23 Mortgage Association, the Federal Housing Administration and the

24 Small Business Administration;

25 (3) The State of New Jersey or any of its political subdivisions;

26 or

27 (c) Obligations now or hereafter authorized by law as security

28 for public deposits;

29 (d) Obligations in which the State, political subdivisions of the

30 State, their officers, boards, commissions, departments and agencies

31 may invest pursuant to an express authorization under any law

32 authorizing the issuance of those obligations;

33 (e) Obligations, letters of credit, or other securities or evidence

34 of indebtedness constituting the direct and general obligation of a

35 federal home loan bank or federal reserve bank; or

36 (f) Any other obligations as may be approved by the

37 commissioner by regulation or by specific approval;

38 "Event of default" means issuance of an order of a supervisory

39 authority or of a receiver restraining a public depository from

40 making payments of deposit liabilities;

41 "Governmental unit" means any county, municipality, school

42 district or any public body corporate and politic created or

43 established under any law of this State by or on behalf of any one or

44 more counties or municipalities, or any board, commission,

45 department or agency of any of the foregoing having custody of

46 funds;

47 "Maximum liability" of a public depository means, with respect

48 to any event of default, a sum equal to 4% of the average daily

1 balance of collected public funds held on deposit by the depository
2 during the three-month period ending on the last day of the month
3 immediately preceding the occurrence of the event of default that
4 exceed the amount of such public fund deposits that are insured by
5 the Federal Deposit Insurance Corporation, the National Credit
6 Union ¹['Administration] Share Insurance Fund¹, or by any other
7 agency of the United States which insures deposits made in public
8 depositories;

9 "Net deposit liability" means the deposit liability of a defaulting
10 depository to a governmental unit after deduction of any deposit
11 insurance with respect thereto;

12 "Obligations" means any bonds, notes, capital notes, bond
13 anticipation notes, tax anticipation notes, temporary notes, loan
14 bonds, mortgage related securities, or mortgages;

15 "Public depository" means a State or federally chartered bank,
16 savings bank, credit union, or an association located in this State or
17 a state or federally chartered bank, savings bank, credit union, or an
18 association located in another state with a branch office in this
19 State, the deposits of which are insured by the Federal Deposit
20 Insurance Corporation or the National Credit Union
21 ¹['Administration] Share Insurance Fund¹ and which receives or
22 holds public funds on deposit;

23 "Public funds" means the funds of any governmental unit, but
24 does not include deposits held by the State of New Jersey Cash
25 Management Fund;

26 "Significantly undercapitalized" means, with respect to a public
27 depository, "significantly undercapitalized" as the term is defined in
28 subsection (b) of section 38 of the "Federal Deposit Insurance Act,"
29 Pub.L.81-797 (12 U.S.C. s.1831o(b)), ¹or subsection (c) of section
30 216 of title II of the "Federal Credit Union Act," Pub.L.73-467 (12
31 U.S.C. s.1790d(c)), as applicable,¹ and ¹['its] their¹ implementing
32 regulations;

33 "Undercapitalized" means, with respect to a public depository,
34 "undercapitalized" as the term is defined in subsection (b) of section
35 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C.
36 s.1831o(b)), ¹or subsection (c) of section 216 of title II of the
37 "Federal Credit Union Act," Pub.L.73-467 (12 U.S.C. s.1790d(c)),
38 as applicable,¹ and ¹['its] their¹ implementing regulations;

39 "Valuation date" means March 31, June 30, September 30, and
40 December 31;

41 "Well capitalized" means, with respect to a public depository,
42 "well capitalized" as the term is defined in subsection (b) of section
43 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C.
44 s.1831o(b)), ¹or subsection (c) of section 216 of title II of the
45 "Federal Credit Union Act," Pub.L.73-467 (12 U.S.C. s.1790d(c)),
46 as applicable,¹ and ¹['its] their¹ implementing regulations.

47 (cf: P.L.2009, c.326, s.1)

1 2. Section 4 of P.L.1970, c.236 (C.17:9-44) is amended to read
2 as follows:

3 4. a. (1) No public depository, notwithstanding the collateral
4 requirements set forth under section 3 of P.L.2009, c.326 (C.17:9-
5 43.1), shall be required to maintain any eligible collateral pursuant
6 to this act as security for any deposit or deposits of any
7 governmental unit to the extent that such deposit or deposits are
8 insured by the Federal Deposit Insurance Corporation, the National
9 Credit Union ¹[Administration] Share Insurance Fund¹, or by any
10 other agency of the United States which insures deposits made in
11 public depositories.

12 (2) In the case of any public depository which has not held
13 public funds on deposit for all of a three-month period as measured
14 pursuant to the provisions of section 3 of P.L.2009, c.326 (C.17:9-
15 43.1), the commissioner shall, notwithstanding the provisions of
16 that section, prescribe the amount of eligible collateral required to
17 be maintained.

18 (3) Depositories shall have the right to make substitutions of
19 eligible collateral at any time. The income from eligible collateral
20 shall belong to the public depository without restriction.

21 b. (Deleted by amendment, P.L.2009, c.326)

22 c. All collateral required to be maintained shall be deposited
23 with any Federal Reserve Bank or Federal Home Loan Bank, or any
24 other banking institution located in this State or a contiguous state
25 as authorized by regulation of the commissioner, and which has
26 capital funds of not less than \$25,000,000.00. Notwithstanding the
27 foregoing, the commissioner may authorize public depositories to
28 hold and maintain the required collateral in such a manner as he
29 deems consistent with the purposes of this act.

30 d. The market value of eligible collateral maintained pursuant
31 to this section on any valuation date shall be presumed to be the
32 market value of such collateral continuing until the next succeeding
33 valuation date.

34 (cf: P.L.2009, c.326, s.4)

35

36 3. Section 5 of P.L.1970, c.236 (C.17:9-45) is amended to read
37 as follows:

38 5. When the commissioner determines that an event of default
39 has occurred, he shall proceed in the following manner:

40 a. Within 20 days after the occurrence of the event of default,
41 he shall ascertain the amount of public funds on deposit in the
42 defaulting depository as disclosed by its records and the amount
43 thereof covered by federal deposit insurance and certify the
44 amounts thereof to each affected governmental unit;

45 b. Within 10 days after receipt of such certification, each such
46 governmental unit shall furnish to the commissioner verified
47 statements of its public deposits in such defaulting depository as
48 disclosed by its records;

- 1 c. Upon receipt of such certificate and statements, he shall
2 ascertain and fix the amount of such public funds on deposit in such
3 defaulting depository, net after deduction of any deposit insurance;
- 4 d. He shall ascertain the amount derived or to be derived from
5 the liquidation of the collateral maintained by the defaulting
6 depository pursuant to section 4 of this act, and shall distribute such
7 proceeds pro rata among the governmental units affected to the
8 extent necessary to satisfy the net deposit liabilities to such
9 governmental units;
- 10 e. If the proceeds of the sale of the collateral of a defaulting
11 depository which is a State bank, a national bank [or] a savings
12 bank, or a credit union are insufficient to pay in full the net deposit
13 liability of such depository to all affected governmental units, he
14 shall assess the deficiency against all other such public depositories
15 having public funds on deposit as of the occurrence of the event of
16 default in the proportion that the maximum liability of each such
17 other public depository bears to the aggregate of the maximum
18 liabilities of all such other depositories, but no such assessment
19 shall exceed the maximum liability of any such other depository;
- 20 f. If the proceeds of the sale of the collateral of a defaulting
21 depository which is an association are insufficient to pay in full the
22 net deposit liability of such depository to all affected governmental
23 units, he shall assess the deficiency against all such other public
24 depositories having public funds on deposit as of the occurrence of
25 the event of default in the proportion that the maximum liability of
26 each such other public depository bears to the aggregate of the
27 maximum liabilities of all such other depositories, but no such
28 assessment shall exceed the maximum liability of any such other
29 depository;
- 30 g. Assessments so made by the commissioner shall be payable
31 on the fifth day following the demand therefor by the
32 commissioner. On default of such payment by any such other
33 public depository, the commissioner shall take possession of and
34 liquidate so much of the eligible collateral maintained by such
35 depository as shall be necessary to satisfy the assessment so made.
36 If the proceeds of the liquidation of the eligible security are
37 insufficient to pay such assessment in full, the commissioner may
38 sue to recover the amount of the deficiency within the limits of the
39 depository's maximum liability.
- 40 h. All sums so collected by the commissioner shall be paid by
41 him to the governmental units having deposits in the defaulting
42 depository in the proportion that the net deposit liability to each
43 such governmental unit bears to the aggregate of the net deposit
44 liabilities to all such governmental units;
- 45 i. No State bank, national bank [or] savings bank, or credit
46 union shall be liable with respect to the occurrence of an event of
47 default of an association, and no association shall be liable with

1 respect to the occurrence of an event of default of a State bank, a
2 national bank **[or]** , a savings bank, or a credit union.

3 (cf: P.L.1970, c. 236, s.5)

4

5 4. Section 11 of P.L.1984, c.171 (C.17:13-89) is amended to
6 read as follows:

7 11. A credit union's powers shall include, but not be limited to,
8 the power to:

9 a. Make contracts;

10 b. Sue and be sued;

11 c. Adopt and use a common seal and alter same;

12 d. Acquire, lease, hold, assign, pledge, hypothecate, sell and
13 otherwise dispose of property, either in whole or in part, necessary
14 or incidental to its operations;

15 e. Offer its members and other credit unions, shares, share
16 certificates, deposits, deposit certificates, or share drafts as
17 provided in this act;

18 f. Lend its funds to its members as hereinafter provided;

19 g. Borrow money from the any source, provided that a credit
20 union shall notify the commissioner in writing of its intention to
21 borrow in excess of an aggregate of 50% of its shares and undivided
22 earnings;

23 h. Discount or sell any of its assets, and purchase the assets of
24 another credit union, subject to the approval of the commissioner;

25 i. Make deposits and invest in legally chartered banks, savings
26 banks, savings and loan associations, trust companies, and other
27 credit unions, including corporate credit unions, and invest funds as
28 otherwise provided in this act;

29 j. Hold membership in other credit unions organized under this
30 act, and in associations and organizations controlled by or fostering
31 the interests of credit unions, including a central liquidity facility
32 organized under state or federal law;

33 k. Act as fiscal agent for and receive payment on shares or
34 deposits, or both, from the federal government, this State, or any
35 agency or political subdivision thereof;

36 l. Have and exercise all the powers of corporations organized
37 under Title 14A of the New Jersey Statutes which are not
38 inconsistent with this act;

39 m. Maintain service facilities, including automated terminals at
40 locations other than its principal office upon the approval of the
41 commissioner. The maintenance of these facilities shall be
42 reasonably necessary to furnish service to its members. A credit
43 union may join with one or more financial institutions in the
44 operation of a service facility to meet member needs;

45 n. Contract with outside vendors to make insurance and group
46 purchasing plans available to its members and receive compensation
47 from the vendors in return for performing administrative functions
48 on their behalf;

1 o. Participate in loans to credit union members jointly with
2 other credit unions, credit union organizations, or financial
3 institutions, provided that the originating credit union retains an
4 interest of at least 10% of the face amount of the loan;

5 p. Participate in any guaranteed loan program of the federal or
6 state government;

7 q. Purchase the conditional sales contracts, notes, and similar
8 instruments of its members;

9 r. Purchase and maintain insurance on behalf of any person
10 who is an officer, director, employee, or agent of the credit union;

11 s. Collect, receive and disburse monies in connection with the
12 providing of negotiable checks, money orders, travelers' checks,
13 and similar instruments, and for any other purposes which may
14 provide benefit or convenience to its members, and to charge a
15 reasonable fee for these services;

16 t. Declare dividends to its members, as provided in the bylaws
17 or by rules and regulations of the commissioner;

18 u. Participate in government programs designed to alleviate
19 social and economic problems at the community, state, or regional
20 levels; and

21 v. Act as a public depository pursuant to the provisions of the
22 “Governmental Unit Deposit Protection Act,” P.L.1970, c.236
23 (C.17:9-41 et seq.).

24 (cf: P.L.1984, c.171, s.11)

25
26 ^{25.} (New section) a. Within six months of the effective date of
27 this section, the Department of Education, in consultation with the
28 Department of Banking and Insurance, shall designate a nonprofit
29 corporation, organized under the “New Jersey Nonprofit
30 Corporation Act,” N.J.S.15A:1-1 et seq., and with a history and
31 experience in promoting financial education and financial literacy
32 and delivering financial education and financial literacy services, to
33 serve as the recipient of the funds due from credit unions pursuant
34 to subsection b. of this section. The designation by the department:

35 (1) shall include any requirements determined by the
36 Department of Education to be necessary to insure proper oversight
37 of the expenditure of the funds by the nonprofit corporation for
38 financial education and financial literacy purposes; and

39 (2) may include a requirement that the nonprofit corporation
40 provide funding for the high school pilot program in personal
41 financial literacy established pursuant to section 1 of P.L. 2009, c.
42 153 (C. 18A:6-115) or any expansion of that program.

43 b. (1) The chief financial officer of a credit union that qualifies
44 as a public depository pursuant to P.L. 1970, c.236 (C. 17:9-41 et
45 seq.) shall transmit to the Department of Banking and Insurance
46 with each fourth quarter report required annually pursuant to
47 section 3 of P.L. 1970, c. 326 (C. 17:9-43) a written certification
48 that the credit union has forwarded to the nonprofit corporation

1 designated pursuant to subsection a. of this section a sum equal to
2 the average daily balance, if the average daily balance is in excess
3 of \$2 million, for the preceding year of the public funds on deposit
4 at the credit union, multiplied by the appropriate factor, as
5 determined in accordance with the following schedule:

6 (a) an average daily balance in excess of \$2 million but less than
7 \$25 million: multiply by a factor of .0005.

8 (b) an average daily balance of \$25 million or over but less than
9 \$50 million: multiply by a factor of .00075.

10 (c) an average daily balance of \$50 million or over: multiply by
11 a factor of .0010.

12 However, in no event, shall a credit union be required to forward
13 a sum in excess of \$100,000 in any one year.

14 (2) The certification shall comply with any requirements
15 determined by the department to be necessary for the calculation
16 and transmission of such funds.

17 c. The Department of Education may adopt, pursuant to the
18 “Administrative Procedure Act,” P.L. 1968, c. 410 (C. 52:14B-1 et
19 seq.) any rules and regulations necessary to implement the
20 provisions of subsection a. of this section. The Department of
21 Banking and Insurance may adopt, pursuant to the “Administrative
22 Procedure Act,” P.L. 1968, c. 410 (C. 52:14B-1 et seq.) any rules
23 and regulations necessary to implement the provisions of subsection
24 b. of this section.²

25

26 ²[5.] 6.² This act shall take effect immediately.

27

28

29

30

31 Authorizes credit unions to serve as depositories of public funds;
32 requires credit unions to provide certain funds for financial literacy
33 education.

SENATE, No. 1807

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 16, 2010

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Senator ROBERT W. SINGER

District 30 (Burlington, Mercer, Monmouth and Ocean)

Co-Sponsored by:

Senator Sarlo

SYNOPSIS

Authorizes credit unions to serve as public depositories of governmental unit public funds.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/28/2010)

1 AN ACT authorizing credit unions to serve as public depositories
2 and amending P.L.1970, c.236 and P.L.1984, c.171.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1970, c.236 (C.17:9-41) is amended to read
8 as follows:

9 1. In this act, unless the context otherwise requires:

10 "Adequately capitalized" means, with respect to a public
11 depository, "adequately capitalized" as the term is defined in
12 subsection (b) of section 38 of the "Federal Deposit Insurance Act,"
13 Pub.L.81-797 (12 U.S.C. s.1831o(b)), and its implementing
14 regulations;

15 "Association" means any State or federally chartered savings and
16 loan association;

17 "Capital funds" means (a) in the case of a State bank or national
18 bank or capital stock savings bank, the aggregate of the capital
19 stock, surplus and undivided profits of the bank or savings bank; (b)
20 in the case of a mutual savings bank, the aggregate of the capital
21 deposits, if any, and the surplus of the savings bank; **[and]** (c) in
22 the case of an association, the aggregate of all reserves required by
23 any law or regulation, and the undivided profits, if any, of the
24 association; and (d) in the case of a credit union, the aggregate of
25 all reserves required by any law or regulation, and the capital
26 deposits of the credit union;

27 "Commissioner" means the Commissioner of Banking and
28 Insurance;

29 "Credit union" means a credit union as defined by section 2 of
30 P.L.1984, c.171 (C.17:13-80);

31 "Critically undercapitalized" means, with respect to a public
32 depository, "critically undercapitalized" as the term is defined in
33 subsection (b) of section 38 of the "Federal Deposit Insurance Act,"
34 Pub.L.81-797 (12 U.S.C. s.1831o(b)), and its implementing
35 regulations;

36 "Defaulting depository" means a public depository as to which
37 an event of default has occurred;

38 "Eligible collateral" means:

39 (a) Obligations of any of the following:

40 (1) The United States;

41 (2) Any agency or instrumentality of the United States,
42 including, but not limited to, the Student Loan Marketing
43 Association, the Government National Mortgage Association, the
44 Federal Home Loan Mortgage Corporation, the Federal National

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

Matter underlined thus is new matter.

1 Mortgage Association, the Federal Housing Administration and the
2 Small Business Administration;
3 (3) The State of New Jersey or any of its political subdivisions;
4 (4) Any other governmental unit; or
5 (b) Obligations guaranteed or insured by any of the following,
6 to the extent of that insurance or guaranty:
7 (1) The United States;
8 (2) Any agency or instrumentality of the United States,
9 including, but not limited to, the Student Loan Marketing
10 Association, the Government National Mortgage Association, the
11 Federal Home Loan Mortgage Corporation, the Federal National
12 Mortgage Association, the Federal Housing Administration and the
13 Small Business Administration;
14 (3) The State of New Jersey or any of its political subdivisions;
15 or
16 (c) Obligations now or hereafter authorized by law as security
17 for public deposits;
18 (d) Obligations in which the State, political subdivisions of the
19 State, their officers, boards, commissions, departments and agencies
20 may invest pursuant to an express authorization under any law
21 authorizing the issuance of those obligations;
22 (e) Obligations, letters of credit, or other securities or evidence
23 of indebtedness constituting the direct and general obligation of a
24 federal home loan bank or federal reserve bank; or
25 (f) Any other obligations as may be approved by the
26 commissioner by regulation or by specific approval;
27 "Event of default" means issuance of an order of a supervisory
28 authority or of a receiver restraining a public depository from
29 making payments of deposit liabilities;
30 "Governmental unit" means any county, municipality, school
31 district or any public body corporate and politic created or
32 established under any law of this State by or on behalf of any one or
33 more counties or municipalities, or any board, commission,
34 department or agency of any of the foregoing having custody of
35 funds;
36 "Maximum liability" of a public depository means, with respect
37 to any event of default, a sum equal to 4% of the average daily
38 balance of collected public funds held on deposit by the depository
39 during the three-month period ending on the last day of the month
40 immediately preceding the occurrence of the event of default that
41 exceed the amount of such public fund deposits that are insured by
42 the Federal Deposit Insurance Corporation, the National Credit
43 Union Administration, or by any other agency of the United States
44 which insures deposits made in public depositories;
45 "Net deposit liability" means the deposit liability of a defaulting
46 depository to a governmental unit after deduction of any deposit
47 insurance with respect thereto;

1 "Obligations" means any bonds, notes, capital notes, bond
2 anticipation notes, tax anticipation notes, temporary notes, loan
3 bonds, mortgage related securities, or mortgages;

4 "Public depository" means a State or federally chartered bank,
5 savings bank, credit union, or an association located in this State or
6 a state or federally chartered bank, savings bank, credit union, or an
7 association located in another state with a branch office in this
8 State, the deposits of which are insured by the Federal Deposit
9 Insurance Corporation or the National Credit Union Administration
10 and which receives or holds public funds on deposit;

11 "Public funds" means the funds of any governmental unit, but
12 does not include deposits held by the State of New Jersey Cash
13 Management Fund;

14 "Significantly undercapitalized" means, with respect to a public
15 depository, "significantly undercapitalized" as the term is defined in
16 subsection (b) of section 38 of the "Federal Deposit Insurance Act,"
17 Pub.L.81-797 (12 U.S.C. s.1831o(b)), and its implementing
18 regulations;

19 "Undercapitalized" means, with respect to a public depository,
20 "undercapitalized" as the term is defined in subsection (b) of section
21 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C.
22 s.1831o(b)), and its implementing regulations;

23 "Valuation date" means March 31, June 30, September 30, and
24 December 31;

25 "Well capitalized" means, with respect to a public depository,
26 "well capitalized" as the term is defined in subsection (b) of section
27 38 of the "Federal Deposit Insurance Act," Pub.L.81-797 (12 U.S.C.
28 s.1831o(b)), and its implementing regulations.

29 (cf: P.L.2009, c.326, s.1)

30

31 2. Section 4 of P.L.1970, c.236 (C.17:9-44) is amended to read
32 as follows:

33 4. a. (1) No public depository, notwithstanding the collateral
34 requirements set forth under section 3 of P.L.2009, c.326 (C.17:9-
35 43.1), shall be required to maintain any eligible collateral pursuant
36 to this act as security for any deposit or deposits of any
37 governmental unit to the extent that such deposit or deposits are
38 insured by the Federal Deposit Insurance Corporation, the National
39 Credit Union Administration, or by any other agency of the United
40 States which insures deposits made in public depositories.

41 (2) In the case of any public depository which has not held
42 public funds on deposit for all of a three-month period as measured
43 pursuant to the provisions of section 3 of P.L.2009, c.326 (C.17:9-
44 43.1), the commissioner shall, notwithstanding the provisions of
45 that section, prescribe the amount of eligible collateral required to
46 be maintained.

1 (3) Depositories shall have the right to make substitutions of
2 eligible collateral at any time. The income from eligible collateral
3 shall belong to the public depository without restriction.

4 b. (Deleted by amendment, P.L.2009, c.326)

5 c. All collateral required to be maintained shall be deposited
6 with any Federal Reserve Bank or Federal Home Loan Bank, or any
7 other banking institution located in this State or a contiguous state
8 as authorized by regulation of the commissioner, and which has
9 capital funds of not less than \$25,000,000.00. Notwithstanding the
10 foregoing, the commissioner may authorize public depositories to
11 hold and maintain the required collateral in such a manner as he
12 deems consistent with the purposes of this act.

13 d. The market value of eligible collateral maintained pursuant
14 to this section on any valuation date shall be presumed to be the
15 market value of such collateral continuing until the next succeeding
16 valuation date.

17 (cf: P.L.2009, c.326, s.4)

18
19 3. Section 5 of P.L.1970, c.236 (C.17:9-45) is amended to read
20 as follows:

21 5. When the commissioner determines that an event of default
22 has occurred, he shall proceed in the following manner:

23 a. Within 20 days after the occurrence of the event of default,
24 he shall ascertain the amount of public funds on deposit in the
25 defaulting depository as disclosed by its records and the amount
26 thereof covered by federal deposit insurance and certify the
27 amounts thereof to each affected governmental unit;

28 b. Within 10 days after receipt of such certification, each such
29 governmental unit shall furnish to the commissioner verified
30 statements of its public deposits in such defaulting depository as
31 disclosed by its records;

32 c. Upon receipt of such certificate and statements, he shall
33 ascertain and fix the amount of such public funds on deposit in such
34 defaulting depository, net after deduction of any deposit insurance;

35 d. He shall ascertain the amount derived or to be derived from
36 the liquidation of the collateral maintained by the defaulting
37 depository pursuant to section 4 of this act, and shall distribute such
38 proceeds pro rata among the governmental units affected to the
39 extent necessary to satisfy the net deposit liabilities to such
40 governmental units;

41 e. If the proceeds of the sale of the collateral of a defaulting
42 depository which is a State bank, a national bank **[or]** a savings
43 bank, or a credit union are insufficient to pay in full the net deposit
44 liability of such depository to all affected governmental units, he
45 shall assess the deficiency against all other such public depositories
46 having public funds on deposit as of the occurrence of the event of
47 default in the proportion that the maximum liability of each such
48 other public depository bears to the aggregate of the maximum

1 liabilities of all such other depositories, but no such assessment
2 shall exceed the maximum liability of any such other depository;

3 f. If the proceeds of the sale of the collateral of a defaulting
4 depository which is an association are insufficient to pay in full the
5 net deposit liability of such depository to all affected governmental
6 units, he shall assess the deficiency against all such other public
7 depositories having public funds on deposit as of the occurrence of
8 the event of default in the proportion that the maximum liability of
9 each such other public depository bears to the aggregate of the
10 maximum liabilities of all such other depositories, but no such
11 assessment shall exceed the maximum liability of any such other
12 depository;

13 g. Assessments so made by the commissioner shall be payable
14 on the fifth day following the demand therefor by the
15 commissioner. On default of such payment by any such other
16 public depository, the commissioner shall take possession of and
17 liquidate so much of the eligible collateral maintained by such
18 depository as shall be necessary to satisfy the assessment so made.
19 If the proceeds of the liquidation of the eligible security are
20 insufficient to pay such assessment in full, the commissioner may
21 sue to recover the amount of the deficiency within the limits of the
22 depository's maximum liability.

23 h. All sums so collected by the commissioner shall be paid by
24 him to the governmental units having deposits in the defaulting
25 depository in the proportion that the net deposit liability to each
26 such governmental unit bears to the aggregate of the net deposit
27 liabilities to all such governmental units;

28 i. No State bank, national bank 【or】, savings bank, or credit
29 union shall be liable with respect to the occurrence of an event of
30 default of an association, and no association shall be liable with
31 respect to the occurrence of an event of default of a State bank, a
32 national bank 【or】, a savings bank, or a credit union.

33 (cf: P.L.1970, c. 236, s.5)

34

35 4. Section 11 of P.L.1984, c.171 (C.17:13-89) is amended to
36 read as follows:

37 11. A credit union's powers shall include, but not be limited to,
38 the power to:

39 a. Make contracts;

40 b. Sue and be sued;

41 c. Adopt and use a common seal and alter same;

42 d. Acquire, lease, hold, assign, pledge, hypothecate, sell and
43 otherwise dispose of property, either in whole or in part, necessary
44 or incidental to its operations;

45 e. Offer its members and other credit unions, shares, share
46 certificates, deposits, deposit certificates, or share drafts as
47 provided in this act;

48 f. Lend its funds to its members as hereinafter provided;

- 1 g. Borrow money from the any source, provided that a credit
2 union shall notify the commissioner in writing of its intention to
3 borrow in excess of an aggregate of 50% of its shares and undivided
4 earnings;
- 5 h. Discount or sell any of its assets, and purchase the assets of
6 another credit union, subject to the approval of the commissioner;
- 7 i. Make deposits and invest in legally chartered banks, savings
8 banks, savings and loan associations, trust companies, and other
9 credit unions, including corporate credit unions, and invest funds as
10 otherwise provided in this act;
- 11 j. Hold membership in other credit unions organized under this
12 act, and in associations and organizations controlled by or fostering
13 the interests of credit unions, including a central liquidity facility
14 organized under state or federal law;
- 15 k. Act as fiscal agent for and receive payment on shares or
16 deposits, or both, from the federal government, this State, or any
17 agency or political subdivision thereof;
- 18 l. Have and exercise all the powers of corporations organized
19 under Title 14A of the New Jersey Statutes which are not
20 inconsistent with this act;
- 21 m. Maintain service facilities, including automated terminals at
22 locations other than its principal office upon the approval of the
23 commissioner. The maintenance of these facilities shall be
24 reasonably necessary to furnish service to its members. A credit
25 union may join with one or more financial institutions in the
26 operation of a service facility to meet member needs;
- 27 n. Contract with outside vendors to make insurance and group
28 purchasing plans available to its members and receive compensation
29 from the vendors in return for performing administrative functions
30 on their behalf;
- 31 o. Participate in loans to credit union members jointly with
32 other credit unions, credit union organizations, or financial
33 institutions, provided that the originating credit union retains an
34 interest of at least 10% of the face amount of the loan;
- 35 p. Participate in any guaranteed loan program of the federal or
36 state government;
- 37 q. Purchase the conditional sales contracts, notes, and similar
38 instruments of its members;
- 39 r. Purchase and maintain insurance on behalf of any person
40 who is an officer, director, employee, or agent of the credit union;
- 41 s. Collect, receive and disburse monies in connection with the
42 providing of negotiable checks, money orders, travelers' checks,
43 and similar instruments, and for any other purposes which may
44 provide benefit or convenience to its members, and to charge a
45 reasonable fee for these services;
- 46 t. Declare dividends to its members, as provided in the bylaws
47 or by rules and regulations of the commissioner;

1 u. Participate in government programs designed to alleviate
2 social and economic problems at the community, state, or regional
3 levels; and

4 v. Act as a public depository pursuant to the provisions of the
5 “Governmental Unit Deposit Protection Act,” P.L.1970, c.236
6 (C.17:9-41 et seq.).
7 (cf: P.L.1984, c.171, s.11)

8
9 5. This act shall take effect immediately.

10
11
12 STATEMENT

13
14 This bill amends the New Jersey “Governmental Unit Deposit
15 Protection Act” (GUDPA), P.L.1970, c.236 (C.17:9-41 et seq.), to
16 allow credit unions to serve as public depositories, making them
17 eligible to receive and hold deposits from New Jersey local
18 governmental units such as municipalities, counties, and school
19 districts.

20 Currently, GUDPA provides that only financial institutions
21 whose deposits are insured by the Federal Deposit Insurance
22 Corporation (FDIC) may serve as public depositories. This
23 restriction excludes credit unions, whose deposits are insured by the
24 National Credit Union Administration (NCUA), even though the
25 NCUA provides deposit protection that is equivalent to the
26 protection provided by the FDIC. The bill does away with this
27 exclusion by expanding the law’s definition of “public depository”
28 to include any federal or state chartered credit unions whose
29 deposits are insured by the NCUA.

30 The bill also amends “The Credit Union Act of 1984,” sections 2
31 through 46 of P.L.1984, c.171 (C.17:30-80 through 17:30-124),
32 under which credit unions are chartered in this State, to reflect that
33 such credit unions have the authority to serve as public depositories
34 pursuant to GUDPA.

35 This bill is intended to increase the number of financial
36 institutions eligible to receive public funds, in order to increase
37 competition for public deposits. Increased competition allows local
38 governments to optimize the return on public deposits and lower the
39 costs for other financial services, thus benefiting taxpayers.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1807

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 27, 2010

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 1807.

This bill, as amended, makes changes to the “Governmental Unit Deposit Protection Act” (GUDPA), P.L.1970, c.236 (C.17:9-41 et seq.), to allow credit unions to serve as public depositories, thereby making them eligible to receive and hold deposits from New Jersey local governmental units such as municipalities, counties, and school districts.

Currently, GUDPA provides that only financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) may serve as public depositories. This restriction excludes credit unions, whose deposits are insured by the National Credit Union Share Insurance Fund (NCUSIF), even though this fund provides deposit protection that is equivalent to the protection provided by the FDIC. The bill does away with this exclusion by expanding the law’s definition of “public depository” to include any federal or state chartered credit union whose deposits are insured by the NCUSIF.

The bill also amends “The Credit Union Act of 1984,” sections 2 through 46 of P.L.1984, c.171 (C.17:30-80 through 17:30-124), under which credit unions are chartered in this State, to reflect that such credit unions have the authority to serve as public depositories pursuant to GUDPA.

The committee amendments to the bill:

- incorporate definitional references regarding the financial condition of a credit union under the “Federal Credit Union Act,” Pub.L.73-467 (12 U.S.C. s.1751 et seq.), to properly account for the bill’s inclusion of credit unions under GUDPA and its linking of collateral requirements for any public funds held on deposit to the overall financial condition of the particular depository; and

- replace references to the “National Credit Union Administration” with the term “National Credit Union Share Insurance Fund,” as the latter is the actual source of depository insurance for credit unions under the federal law (while the former serves as the administrator of this source of insurance).

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1807

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 2011

The Assembly Financial Institutions Committee reports favorably and with committee amendments Senate Bill No. 1807 (1R).

This bill makes changes to the “Governmental Unit Deposit Protection Act” (GUDPA), P.L.1970, c.236 (C.17:9-41 et seq.), to allow credit unions to serve as public depositories, thereby making them eligible to receive and hold deposits from New Jersey local governmental units such as municipalities, counties, and school districts.

Currently, GUDPA provides that only financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) may serve as public depositories. This restriction excludes credit unions, whose deposits are insured by the National Credit Union Share Insurance Fund (NCUSIF), even though this fund provides deposit protection that is equivalent to the protection provided by the FDIC. The bill does away with this exclusion by expanding the law’s definition of “public depository” to include any federal or state chartered credit union whose deposits are insured by the NCUSIF.

The bill also amends “The Credit Union Act of 1984,” sections 2 through 46 of P.L.1984, c.171 (C.17:30-80 through 17:30-124), under which credit unions are chartered in this State, to reflect that such credit unions have the authority to serve as public depositories pursuant to GUDPA.

COMMITTEE AMENDMENTS

The committee amended the bill to add a requirement that credit unions provide certain funds for financial literacy education. The amendments make this bill identical to A-1597 (1R).

ASSEMBLY, No. 1597

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Co-Sponsored by:

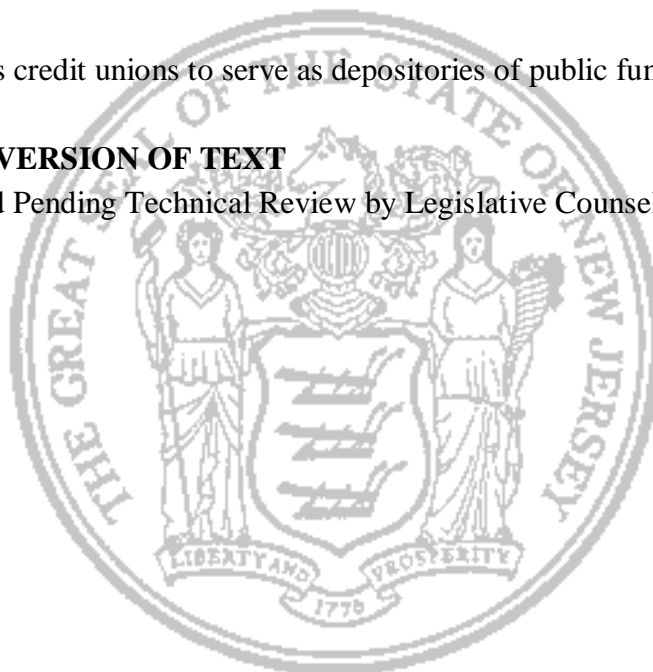
Assemblywoman Pou, Assemblyman Moriarty, Assemblywomen Riley, Lampitt, Assemblyman Fuentes, Assemblywoman Wagner, Assemblyman Dancer, Assemblywoman Spencer, Assemblymen Coughlin, Gusciora, Green, Assemblywomen Stender and Jasey

SYNOPSIS

Authorizes credit unions to serve as depositories of public funds.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 6/14/2011)

A1597 SCALERA, CHIVUKULA

2

1 AN ACT authorizing credit unions to serve as public depositories
2 and amending P.L.1970, c. 236 and P.L.1984, c. 171.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1970, c. 236 (C.17:9-41) is amended to read
8 as follows:

9 1. In this act, unless the context otherwise requires:

10 "Association" means any State or federally chartered savings and
11 loan association;

12 "Capital funds" means (a) in the case of a State bank or national
13 bank or capital stock savings bank, the aggregate of the capital
14 stock, surplus and undivided profits of the bank or savings bank; (b)
15 in the case of a mutual savings bank, the aggregate of the capital
16 deposits, if any, and the surplus of the savings bank; **[and]** (c) in
17 the case of an association, the aggregate of all reserves required by
18 any law or regulation, and the undivided profits, if any, of the
19 association; and (d) in the case of a credit union, the aggregate of
20 all reserves required by any law or regulation and the capital
21 deposits of the credit union;

22 "Commissioner" means the Commissioner of Banking and
23 Insurance;

24 "Credit union" means a credit union as defined by section 2 of
25 P.L.1984, c.171 (C.17:13-80);

26 "Defaulting depository" means a public depository as to which
27 an event of default has occurred;

28 "Eligible collateral" means:

29 (a) Obligations of any of the following:

30 (1) The United States;

31 (2) Any agency or instrumentality of the United States,
32 including, but not limited to, the Student Loan Marketing
33 Association, the Government National Mortgage Association, the
34 Federal Home Loan Mortgage Corporation, the Federal National
35 Mortgage Association, the Federal Housing Administration and the
36 Small Business Administration;

37 (3) The State of New Jersey or any of its political subdivisions;

38 (4) Any other governmental unit; or

39 (b) Obligations guaranteed or insured by any of the following,
40 to the extent of that insurance or guaranty:

41 (1) The United States;

42 (2) Any agency or instrumentality of the United States,
43 including, but not limited to, the Student Loan Marketing
44 Association, the Government National Mortgage Association, the
45 Federal Home Loan Mortgage Corporation, the Federal National

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

Matter underlined thus is new matter.

1 Mortgage Association, the Federal Housing Administration and the
2 Small Business Administration;

3 (3) The State of New Jersey or any of its political subdivisions;
4 or

5 (c) Obligations now or hereafter authorized by law as security
6 for public deposits;

7 (d) Obligations in which the State, political subdivisions of the
8 State, their officers, boards, commissions, departments and agencies
9 may invest pursuant to an express authorization under any law
10 authorizing the issuance of those obligations;

11 (e) Obligations, letters of credit, or other securities or evidence
12 of indebtedness constituting the direct and general obligation of a
13 federal home loan bank or federal reserve bank; or

14 (f) Any other obligations as may be approved by the
15 commissioner by regulation or by specific approval;

16 "Event of default" means issuance of an order of a supervisory
17 authority or of a receiver restraining a public depository from
18 making payments of deposit liabilities;

19 "Governmental unit" means any county, municipality, school
20 district or any public body corporate and politic created or
21 established under any law of this State by or on behalf of any one or
22 more counties or municipalities, or any board, commission,
23 department or agency of any of the foregoing having custody of
24 funds;

25 "Maximum liability" of a public depository means, with respect
26 to any event of default, a sum equal to 5% of the average daily
27 balance of collected public funds held on deposit by the depository
28 during the six-month period ending on the last day of the month
29 next preceding the occurrence of such event of default;

30 "Net deposit liability" means the deposit liability of a defaulting
31 depository to a governmental unit after deduction of any deposit
32 insurance with respect thereto;

33 "Obligations" means any bonds, notes, capital notes, bond
34 anticipation notes, tax anticipation notes, temporary notes, loan
35 bonds, mortgage related securities, or mortgages;

36 "Public depository" means a State or federally chartered bank,
37 savings bank, credit union, or an association located in this State or
38 a state or federally chartered bank, savings bank, credit union, or an
39 association located in another state with a branch office in this
40 State, the deposits of which are insured by the Federal Deposit
41 Insurance Corporation or the National Credit Union Administration
42 and which receives or holds public funds on deposit;

43 "Public funds" means the funds of any governmental unit, but
44 does not include deposits held by the State of New Jersey Cash
45 Management Fund;

46 "Valuation date" means December 31 and June 30.
47 (cf: P.L.2003, c.178, s.1)

1 2. Section 4 of P.L.1970, c. 236 (C.17:9-44) is amended to read
2 as follows:

3 4. a. Every public depository having public funds on deposit
4 therein shall, as security for such deposits, maintain eligible
5 collateral having a market value at least equal to either (1) 5% of
6 the average daily balance of collected public funds on deposit
7 during the 6-month period ending on the next preceding valuation
8 date, or (2), at the election of the depository, at least equal to 5% of
9 the average balance of collected public funds on deposit on the first,
10 eighth, fifteenth and twenty-second days of each month in the 6-
11 month period ending on the next preceding valuation date, but no
12 public depository shall be required to maintain any eligible
13 collateral pursuant to this act as security for any deposit or deposits
14 of any governmental unit to the extent that such deposit or deposits
15 are insured by the Federal Deposit Insurance Corporation **[or]** , the
16 Federal Savings and Loan Insurance Corporation, the National
17 Credit Union Administration, or by any other agency of the United
18 States which insures deposits made in public depositories. In the
19 case of any public depository which has not held public funds on
20 deposit for all of such 6-month period, the commissioner shall
21 prescribe the amount of eligible collateral required to be
22 maintained. Depositories shall have the right to make substitutions
23 of eligible collateral at any time. The income from eligible
24 collateral shall belong to the public depository without restriction.

25 b. No public depository shall at any time receive and hold on
26 deposit for any period in excess of 15 days public funds of a
27 governmental unit or governmental units which, in the aggregate,
28 exceed 75% of the capital funds of the depository, unless such
29 depository shall, in addition to the security required to be
30 maintained under paragraph a. of this section, secure such excess by
31 eligible collateral with a market value at least equal to 100% of
32 such excess.

33 c. All collateral required to be maintained shall be deposited
34 with the Federal Reserve Bank of New York, the Federal Reserve
35 Bank of Philadelphia, the Federal Home Loan Bank of New York,
36 as the case may be, or with any other banking institution located in
37 this State or a contiguous state which is a member of the Federal
38 Reserve System and has capital funds of not less than
39 \$25,000,000.00. Notwithstanding the foregoing, the commissioner
40 may authorize public depositories to hold and maintain the required
41 collateral in such a manner as he deems consistent with the
42 purposes of this act.

43 d. The market value of eligible collateral maintained pursuant
44 to this section on any valuation date shall be presumed to be the
45 market value of such collateral until the next succeeding valuation
46 date.

47 (cf: P.L.1973, c. 98, s. 2)

- 1 3. Section 5 of P.L.1970, c.236 (C.17:9-45) is amended to read
2 as follows:
- 3 5. When the commissioner determines that an event of default
4 has occurred, he shall proceed in the following manner:
- 5 a. Within 20 days after the occurrence of the event of default,
6 he shall ascertain the amount of public funds on deposit in the
7 defaulting depository as disclosed by its records and the amount
8 thereof covered by federal deposit insurance and certify the
9 amounts thereof to each affected governmental unit;
- 10 b. Within 10 days after receipt of such certification, each such
11 governmental unit shall furnish to the commissioner verified
12 statements of its public deposits in such defaulting depository as
13 disclosed by its records;
- 14 c. Upon receipt of such certificate and statements, he shall
15 ascertain and fix the amount of such public funds on deposit in such
16 defaulting depository, net after deduction of any deposit insurance;
- 17 d. He shall ascertain the amount derived or to be derived from
18 the liquidation of the collateral maintained by the defaulting
19 depository pursuant to section 4 of this act, and shall distribute such
20 proceeds pro rata among the governmental units affected to the
21 extent necessary to satisfy the net deposit liabilities to such
22 governmental units;
- 23 e. If the proceeds of the sale of the collateral of a defaulting
24 depository which is a State bank, a national bank, a credit union, or
25 a savings bank are insufficient to pay in full the net deposit liability
26 of such depository to all affected governmental units, he shall
27 assess the deficiency against all other such public depositories
28 having public funds on deposit as of the occurrence of the event of
29 default in the proportion that the maximum liability of each such
30 other public depository bears to the aggregate of the maximum
31 liabilities of all such other depositories, but no such assessment
32 shall exceed the maximum liability of any such other depository;
- 33 f. If the proceeds of the sale of the collateral of a defaulting
34 depository which is an association are insufficient to pay in full the
35 net deposit liability of such depository to all affected governmental
36 units, he shall assess the deficiency against all such other public
37 depositories having public funds on deposit as of the occurrence of
38 the event of default in the proportion that the maximum liability of
39 each such other public depository bears to the aggregate of the
40 maximum liabilities of all such other depositories, but no such
41 assessment shall exceed the maximum liability of any such other
42 depository;
- 43 g. Assessments so made by the commissioner shall be payable
44 on the fifth day following the demand therefor by the
45 commissioner. On default of such payment by any such other
46 public depository, the commissioner shall take possession of and
47 liquidate so much of the eligible collateral maintained by such

1 depository as shall be necessary to satisfy the assessment so made.
2 If the proceeds of the liquidation of the eligible security are
3 insufficient to pay such assessment in full, the commissioner may
4 sue to recover the amount of the deficiency within the limits of the
5 depository's maximum liability.

6 h. All sums so collected by the commissioner shall be paid by
7 him to the governmental units having deposits in the defaulting
8 depository in the proportion that the net deposit liability to each
9 such governmental unit bears to the aggregate of the net deposit
10 liabilities to all such governmental units;

11 i. No State bank, national bank, credit union, or savings bank
12 shall be liable with respect to the occurrence of an event of default
13 of an association, and no association shall be liable with respect to
14 the occurrence of an event of default of a State bank, a national
15 bank, a credit union, or a savings bank.

16 (cf: P.L.1970, c. 236, s. 5)

17

18 4. Section 11 of P.L.1984, c. 171 (C.17:13-89) is amended to
19 read as follows:

20 11. A credit union's powers shall include, but not be limited to,
21 the power to:

22 a. Make contracts;

23 b. Sue and be sued;

24 c. Adopt and use a common seal and alter same;

25 d. Acquire, lease, hold, assign, pledge, hypothecate, sell and
26 otherwise dispose of property, either in whole or in part, necessary
27 or incidental to its operations;

28 e. Offer its members and other credit unions, shares, share
29 certificates, deposits, deposit certificates, or share drafts as
30 provided in this act;

31 f. Lend its funds to its members as hereinafter provided;

32 g. Borrow money from the any source, provided that a credit
33 union shall notify the commissioner in writing of its intention to
34 borrow in excess of an aggregate of 50% of its shares and undivided
35 earnings;

36 h. Discount or sell any of its assets, and purchase the assets of
37 another credit union, subject to the approval of the commissioner;

38 i. Make deposits and invest in legally chartered banks, savings
39 banks, savings and loan associations, trust companies, and other
40 credit unions, including corporate credit unions, and invest funds as
41 otherwise provided in this act;

42 j. Hold membership in other credit unions organized under this
43 act, and in associations and organizations controlled by or fostering
44 the interests of credit unions, including a central liquidity facility
45 organized under state or federal law;

- 1 k. Act as fiscal agent for and receive payment on shares or
2 deposits, or both, from the federal government, this State, or any
3 agency or political subdivision thereof;
- 4 l. Have and exercise all the powers of corporations organized
5 under Title 14A of the New Jersey Statutes which are not
6 inconsistent with this act;
- 7 m. Maintain service facilities, including automated terminals at
8 locations other than its principal office upon the approval of the
9 commissioner. The maintenance of these facilities shall be
10 reasonably necessary to furnish service to its members. A credit
11 union may join with one or more financial institutions in the
12 operation of a service facility to meet member needs;
- 13 n. Contract with outside vendors to make insurance and group
14 purchasing plans available to its members and receive compensation
15 from the vendors in return for performing administrative functions
16 on their behalf;
- 17 o. Participate in loans to credit union members jointly with
18 other credit unions, credit union organizations, or financial
19 institutions, provided that the originating credit union retains an
20 interest of at least 10% of the face amount of the loan;
- 21 p. Participate in any guaranteed loan program of the federal or
22 state government;
- 23 q. Purchase the conditional sales contracts, notes, and similar
24 instruments of its members;
- 25 r. Purchase and maintain insurance on behalf of any person
26 who is an officer, director, employee, or agent of the credit union;
- 27 s. Collect, receive and disburse monies in connection with the
28 providing of negotiable checks, money orders, travelers' checks,
29 and similar instruments, and for any other purposes which may
30 provide benefit or convenience to its members, and to charge a
31 reasonable fee for these services;
- 32 t. Declare dividends to its members, as provided in the bylaws
33 or by rules and regulations of the commissioner;
- 34 u. Participate in government programs designed to alleviate
35 social and economic problems at the community, state, or regional
36 levels; and
- 37 v. Act as a public depository pursuant to the provisions of
38 P.L.1970, c. 236 (C.17:9-41 et seq.) .
39 (cf: P.L.1984, c. 171, s. 11)

40
41 5. This act shall take effect immediately.

42
43
44 STATEMENT

45
46 This bill amends the New Jersey "Governmental Unit Deposit
47 Protection Act," P.L.1970, c.236 (C.17:9-41 et seq.) (GUDPA) to

1 allow credit unions to serve as public depositories that are eligible
2 to receive and hold deposits from New Jersey local government
3 units such as municipalities, counties, and school districts.

4 Currently, GUDPA provides that only financial institutions
5 whose deposits are insured by the Federal Deposit Insurance
6 Corporation (FDIC) may serve as public depositories. This
7 restriction excludes credit unions, whose deposits are insured by the
8 National Credit Union Administration (NCUA), even though the
9 NCUA provides deposit protection that is equivalent to the
10 protection provided by the FDIC. The bill expands GUDPA's
11 definition of "public depository" to include credit unions whose
12 deposits are insured by the NCUA.

13 The bill applies to New Jersey credit unions that are chartered
14 under the "Federal Credit Union Act" (12 U.S.C. s.1751 et seq.) or
15 the State's "The Credit Union Act of 1984," P.L.1984, c.171,
16 sections 2 to 46 (C.17:30-80 to 17:30-124). The bill also amends
17 "The Credit Union Act of 1984" to reflect that credit unions have
18 the authority to serve as public depositories pursuant to GUDPA.

19 This bill is intended to increase the number of financial
20 institutions eligible to receive public funds, in order to increase
21 competition for public deposits. Increased competition allows local
22 governments to optimize the return on public deposits and lower the
23 costs for other financial services, thus benefiting taxpayers.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1597

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 2011

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 1597.

This bill, as amended, makes changes to the New Jersey “Governmental Unit Deposit Protection Act,” P.L.1970, c.236 (C.17:9-41 et seq.) (GUDPA) to allow credit unions to serve as public depositories that are eligible to receive and hold deposits from New Jersey local government units such as municipalities, counties, and school districts.

Currently, GUDPA provides that only financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) may serve as public depositories. This restriction excludes credit unions, whose deposits are insured by the National Credit Union Share Insurance Fund, (NCUSIF), even though the NCUSIF provides deposit protection that is equivalent to the protection provided by the FDIC. The bill expands GUDPA’s definition of “public depository” to include credit unions whose deposits are insured by the NCUSIF.

The bill also amends “The Credit Union Act of 1984,” sections 2 through 46 of P.L.1984, c.171 (C.17:30-80 through 17:30-124), under which credit unions are chartered in this State, to reflect that such credit unions have the authority to serve as public depositories pursuant to GUDPA.

This bill is intended to increase the number of financial institutions eligible to receive public funds, in order to increase competition for public deposits. Increased competition allows local governments to optimize the return on public deposits and lower the costs for other financial services, thus benefiting taxpayers.

This bill was pre-filed for introduction in the 2010-2011 session, pending technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- add a requirement that credit unions provide certain funds for financial literacy education;

- incorporate definitional references regarding the financial condition of a credit union under the “Federal Credit Union Act,” Pub.L.73-467 (12 U.S.C. s.1751 et seq.), to properly account for the bill’s inclusion of credit unions under GUDPA and its linking of collateral requirements for any public funds held on deposit to the overall financial condition of the particular depository;

- replace references to the “National Credit Union Administration” with the term “National Credit Union Share Insurance Fund,” as the latter is the actual source of depository insurance for credit unions under the federal law (while the former serves as the administrator of this source of insurance); and

- incorporate technical changes to reflect recent changes to the existing law.

These amendments make this bill identical to S-1807 (2R).