

R.S. 17:9-41 thru 48

October 28, 1971

LEGISLATIVE HISTORY OF R.S.17:9-41 through R.S.17:9-48
(Governmental Unit Deposit Protection Act)

In 1970, the Eatontown National Bank failed: This measure was one result.

Similar bill introduced:

1970 - A 1215.

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L.1970 - chap.236 - A 1249.

Sept.21 - Introduced by Robertson and others.

Oct.5 - Committee Substitute passed in Assembly under emergency resolution. (copy enclosed)

Oct.8 - Passed in Senate under emergency resolution.

Oct.27 - Approved, chapter 236.

No statement.

Governor made statement upon signing. (copy enclosed)

Comments in:

974.905
S26

Savings and loan Guide

Nov.1970

p.1,8 (copy enclosed)

Clippings located (V.F.--N.J.--Banks and banking) (copy encl.)

Cahill is drafting bank failure bill APP 8/27/70

Robertson files bill on banking APP 9/22/70

Deposits safeguard approved APP 10/9/70

Cahill signs safeguards for public bank deposits NSL 10/23/70

Cahill signs bank funds safety bill NEN 10/23/70

Cahill signs banking bill NEN 10/27/70

Deposit security enacted APP 10/28/70

Article located: (copy enclosed)

New law protecting municipal accounts 93 NJLJ 780, Nov.5, 1970

JH/EH
Encl.

ASSEMBLY, No. 1249

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 21, 1970

By Assemblymen ROBERTSON, AZZOLINA, COLEMAN, PARKER,
W. L. SMITH, FRIEDLAND, DEVERIN, FAY, EVERS, FONTA-
NELLA, FORAN, FLORIO and GARIBALDI

(Without Reference)

AN ACT concerning security for deposits of governmental units in
banks and savings banks.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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

2 "Capital funds" means (a) in the case of a State bank or national
3 bank the aggregate of the capital stock, surplus and undivided
4 profits of the bank and (b) in the case of a savings bank the
5 aggregate of the capital deposits, if any, and the surplus of the
6 savings bank;

7 "Commissioner" means the Commissioner of Banking;

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

10 "Eligible collateral" means obligations of or guaranteed by the
11 United States, obligations of or guaranteed by the State of New
12 Jersey, obligations of governmental units, including, but not limited
13 to, capital notes, bond anticipation notes, tax anticipation notes and
14 temporary notes or loan bonds, and any other obligations now or
15 hereafter authorized by law as security for public deposits;

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 estab-
21 lished under any law of this State by or on behalf of any one or more
22 counties or municipalities, or any board, commission, department or
23 agency of any of the foregoing having custody of funds;

24 "Maximum liability" of a public depository means, with respect
25 to any event of default, a sum equal to 5% of the average daily

26 balance of collected public funds held on deposit by the depository
27 during the 6-month period ending on the last day of the month next
28 preceding the occurrence of such event of default;

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

32 "Public depository" means a State bank, a national bank or
33 savings bank located in this State which receives or holds public
34 funds on deposit;

35 "Public funds" means the funds of any governmental unit;

1 2. Except as otherwise provided by law, all public funds shall be
2 deposited in a public depository or depositories and shall be secured
3 as provided in this act.

1 3. The commissioner shall have power

2 a. To require any public depository to furnish such information
3 dealing with public funds on deposit therein as the commissioner
4 shall request. Any public depository which refuses or neglects to
5 give any information so requested may be excluded by the commis-
6 sioner from the right to receive public funds for deposit until
7 such time as the commissioner shall acknowledge that such depository
8 has furnished the information requested;

9 b. To take such action as he deems best for the protection, collec-
10 tion, compromise, or settlement of any claim arising in case of an
11 event of default;

12 c. To fix the date on which any event of default shall be deemed
13 to have occurred, taking into consideration the orders, rules and
14 regulations of any supervisory authority as they affect the failure
15 or inability of a public depository to repay public funds held on
16 deposit;

17 d. Upon the happening of an event of default, to take possession
18 of and liquidate the collateral of the defaulting depository main-
19 tained pursuant to section 4 of this act;

20 e. To do all acts required to carry out the purposes of this act
21 and, to that end, to make, amend and repeal regulations consistent
22 with this act.

1 4. a. Every public depository having public funds on deposit
2 therein shall, as security for such deposits, maintain eligible collat-
3 eral having a market value at least equal to 5% of the average daily
4 balance of collected public funds on deposit during the 6-month
5 period ending on the next preceding December 31 or June 30,
6 as the case may be. The market value of eligible collateral required
7 to be maintained pursuant to this paragraph shall be determined as
8 of the next preceding December 31 or June 30, as the case may be.

9 In the case of any public depository which has not held public funds
10 on deposit for all of such 6-month period, the commissioner shall
11 prescribe the amount of eligible collateral required to be maintained.
12 Depositories shall have the right to make substitutions of eligible
13 collateral at any time. The income from eligible collateral shall
14 belong to the public depository without restriction.

15 b. No public depository shall at any time receive and hold on
16 deposit public funds of a governmental unit or governmental units
17 which, in the aggregate, exceed 75% of the capital funds of the
18 depository, unless such depository shall, in addition to the security
19 required to be maintained under paragraph a of this section, secure
20 such excess by collateral eligible to secure deposits of state funds
21 with a market value at least equal to 100% of such excess.

22 c. All collateral required to be maintained shall be deposited with
23 the Federal Reserve Bank of New York or the Federal Reserve
24 Bank of Philadelphia, or with any other banking institution located
25 in this State or a contiguous state which is a member of the Federal
26 Reserve System and has capital funds of not less than \$25,000,000.00.

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

3 a. Within 20 days after the occurrence of the event of default,
4 he shall ascertain the amount of public funds on deposit in the
5 defaulting depository as disclosed by its records and the amount
6 thereof covered by deposit insurance and certify the amounts
7 thereof to each affected governmental unit;

8 b. Within 10 days after receipt of such certification, each such
9 governmental unit shall furnish to the commissioner verified state-
10 ments of its public deposits in such defaulting depository as dis-
11 closed by its records;

12 c. Upon receipt of such certificate and statements, he shall ascer-
13 tain and fix the amount of such public funds on deposit in such
14 defaulting despository, net after deduction of any deposit insur-
15 ance;

16 d. He shall ascertain the amount derived or to be derived from
17 the liquidation of the collateral maintained by the defaulting de-
18 pository pursuant to section 4 of this act, and shall distribute such
19 proceeds pro rata among the governmental units affected to the
20 extent necessary to satisfy the net deposit liabilities to such govern-
21 mental units;

22 e. If the proceeds of the sale of the collateral of the defaulting
23 depository are insufficient to pay in full the net deposit liability of
24 such depository to all affected governmental units, he shall assess
25 the deficiency against all other public depositories having public

26 funds on deposit as of the occurrence of the event of default in the
27 proportion that the maximum liability of each such other public
28 depository bears to the aggregate of the maximum liabilities of all
29 such other depositories, but no such assessment shall exceed the
30 maximum liability of any such other depository;

31 f. Assessments so made by the commissioner shall be payable on
32 the fifth day following the demand therefor by the commissioner.
33 On default of such payment by any such other public depository, the
34 commissioner shall take possession of and liquidate so much of the
35 eligible collateral maintained by such depository as shall be neces-
36 sary to satisfy the assessment so made. If the proceeds of the liqui-
37 dation of the eligible security are insufficient to pay such assessment
38 in full, the commissioner may sue to recover the amount of the
39 deficiency within the limits of the depository's maximum liability.

40 g. All sums so collected by the commissioner shall be paid by him
41 to the governmental units having deposits in the defaulting depository
42 in the proportion that the net deposit liability to each such
43 governmental unit bears to the aggregate of the net deposit liabilities
44 to all such governmental units.

1 6. Upon payment to a governmental unit, the commissioner shall
2 be subrogated to all of such governmental unit's right, title and
3 interest against the defaulting depository. All sums received from
4 any distribution of any liquidation of the defaulting depository shall
5 be paid to the affected governmental units to the extent of any un-
6 paid net deposit liability and the balance shall be paid to the public
7 depositories against which assessments were made, in proportion
8 to such assessments. If the commissioner incurs expense in enforce-
9 ing any such claim, the amount thereof shall be paid as a liquidation
10 expense of the defaulting depository.

1 7. The provisions of this act shall become operative on December
2 1, 1970, but the commissioner may issue appropriate regulations in
3 advance thereof.

1 8. This act shall be known and may be cited as the "Govern-
2 mental Unit Deposit Protection Act."

1 9. This act shall take effect immediately.

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1249

STATE OF NEW JERSEY

ADOPTED OCTOBER 5, 1970

AN ACT concerning security for deposits of governmental units in banks, savings banks and savings and loan associations.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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

2 "Association" means any State or Federally chartered savings
3 and loan association.

4 "Capital funds" means (a) in the case of a State bank or national
5 bank the aggregate of the capital stock, surplus and undivided
6 profits of the bank; (b) in the case of a savings bank the aggregate
7 of the capital deposits, if any, and the surplus of the savings bank;
8 and (c) in the case of an association, the aggregate of all reserves
9 required by any law or regulations, and the undivided profits, if
10 any, of the association;

11 "Commissioner" means the Commissioner of Banking;

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

14 "Eligible collateral" means obligations of or guaranteed by the
15 United States, obligations of or guaranteed by the State of New
16 Jersey, obligations of governmental units, including, but not limited
17 to, capital notes, bond anticipation notes, tax anticipation notes and
18 temporary notes or loan bonds, and any other obligations now or
19 hereafter authorized by law as security for public deposits;

20 "Event of default" means issuance of an order of a supervisory
21 authority or of a receiver restraining a public depository from
22 making payments of deposit liabilities;

23 "Governmental unit" means any county, municipality, school
24 district or any public body corporate and politic created or estab-
25 lished under any law of this State by or on behalf of any one or more
26 counties or municipalities, or any board, commission, department or
27 agency of any of the foregoing having custody of funds;

28 "Maximum liability" of a public depository means, with respect
29 to any event of default, a sum equal to 5% of the average daily
30 balance of collected public funds held on deposit by the depository
31 during the 6-month period ending on the last day of the month next
32 preceding the occurrence of such event of default;

33 "Net deposit liability" means the deposit liability of a defaulting
34 depository to a governmental unit after deduction of any deposit
35 insurance with respect thereto;

36 "Public depository" means a State bank, a national bank, a
37 savings bank or an association located in this State, the deposits
38 of which are insured by the Federal Deposit Insurance Corporation
39 or the Federal Savings and Loan Insurance Corporation, as the
40 case may be, and which receives or holds public funds on deposit;

41 "Public funds" means the funds of any governmental unit;

42 "Valuation date" means December 31 and June 30.

1 2. No governmental unit shall deposit public funds in a public
2 depository unless such funds are secured in accordance with this
3 act.

1 3. The commissioner shall have power

2 a. To require any public depository to furnish such information
3 and furnish such reports dealing with public funds on deposit
4 therein as the commissioner shall request. Any public depository
5 which refuses or neglects to give any information so requested
6 may be excluded by the commissioner from the right to receive
7 public funds for deposit until such time as the commissioner shall
8 acknowledge that such depository has furnished the information
9 requested;

10 b. To take such action as he deems best for the protection, col-
11 lection, compromise, or settlement of any claim arising in case of
12 an event of default;

13 c. To fix the date on which any event of default shall be deemed
14 to have occurred, taking into consideration the orders, rules and
15 regulations of any supervisory authority as they affect the failure
16 or inability of a public depository to repay public funds held on
17 deposit;

18 d. Upon the happening of an event of default, to take possession
19 of and liquidate the collateral of the defaulting depository main-
20 tained pursuant to section 4 of this act;

21 e. To do all acts required to carry out the purposes of this act
22 and, to that end, to make, amend and repeal regulations consistent
23 with this act.

1 4. a. Every public depository having public funds on deposit
2 therein shall, as security for such deposits, maintain eligible collat-
3 eral having a market value at least equal to 5% of the average daily
4 balance of collected public funds on deposit during the 6-month
5 period ending on the next preceding valuation date. In the case of
6 any public depository which has not held public funds on deposit
7 for all of such 6-month period, the commissioner shall prescribe
8 the amount of eligible collateral required to be maintained.
9 Depositories shall have the right to make substitutions of eligible
10 collateral at any time. The income from eligible collateral shall
11 belong to the public depository without restriction.

12 b. No public depository shall at any time receive and hold on
13 deposit for any period in excess of 15 days public funds of a
14 governmental unit or governmental units which, in the aggregate,
15 exceed 75% of the capital funds of the depository, unless such
16 depository shall, in addition to the security required to be main-
17 tained under paragraph a of this section, secure such excess by
18 eligible collateral with a market value at least equal to 100% of
19 such excess.

20 c. All collateral required to be maintained shall be deposited with
21 the Federal Reserve Bank of New York, the Federal Reserve Bank
22 of Philadelphia, the Federal Home Loan Bank of New York, as
23 the case may be, or with any other banking institution located in
24 this State or a contiguous state which is a member of the Federal
25 Reserve System and has capital funds of not less than \$25,000,000.00.

26 d. The market value of eligible collateral maintained pursuant
27 to this section on any valuation date shall be presumed to be the
28 market value of such collateral until the next succeeding valuation
29 date.

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

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

8 b. Within 10 days after receipt of such certification, each such
9 governmental unit shall furnish to the commissioner verified state-
10 ments of its public deposits in such defaulting depository as dis-
11 closed by its records;

12 c. Upon receipt of such certificate and statements, he shall ascer-
13 tain and fix the amount of such public funds on deposit in such

14 defaulting depository, net after deduction of any deposit insurance;

15 d. He shall ascertain the amount derived or to be derived from
16 the liquidation of the collateral maintained by the defaulting de-
17 pository pursuant to section 4 of this act, and shall distribute such
18 proceeds pro rata among the governmental units affected to the
19 extent necessary to satisfy the net deposit liabilities to such govern-
20 mental units;

21 e. If the proceeds of the sale of the collateral of a defaulting
22 depository which is a State bank, a national bank or a savings
23 bank are insufficient to pay in full the net deposit liability of such
24 depository to all affected governmental units, he shall assess the
25 deficiency against all other such public depositories having public
26 funds on deposit as of the occurrence of the event of default in the
27 proportion that the maximum liability of each such other public
28 depository bears to the aggregate of the maximum liabilities of all
29 such other depositories, but no such assessment shall exceed the
30 maximum liability of any such other depository;

31 f. If the proceeds of the sale of the collateral of a defaulting
32 depository which is an association are insufficient to pay in full
33 the net deposit liability of such depository to all affected govern-
34 mental units, he shall assess the deficiency against all such other
35 public depositories having public funds on deposit as of the occur-
36 rence of the event of default in the proportion that the maximum
37 liability of each such other public depository bears to the aggregate
38 of the maximum liabilities of all such other depositories, but no
39 such assessment shall exceed the maximum liability of any such
40 other depository;

41 g. Assessments so made by the commissioner shall be payable on
42 the fifth day following the demand therefor by the commissioner.
43 On default of such payment by any such other public depository, the
44 commissioner shall take possession of and liquidate so much of the
45 eligible collateral maintained by such depository as shall be neces-
46 sary to satisfy the assessment so made. If the proceeds of the liqui-
47 dation of the eligible security are insufficient to pay such assessment
48 in full, the commissioner may sue to recover the amount of the
49 deficiency within the limits of the depository's maximum liability.

50 h. All sums so collected by the commissioner shall be paid by him
51 to the governmental units having deposits in the defaulting depository
52 in the proportion that the net deposit liability to each such
53 governmental unit bears to the aggregate of the net deposit liabilities
54 to all such governmental units;

55 i. No State bank, national bank or savings bank shall be liable
56 with respect to the occurrence of an event of default of an associa-
57 tion, and no association shall be liable with respect to the occur-
58 rence of an event of default of a State bank, a national bank or a
59 savings bank.

1 6. Upon payment to a governmental unit, the commissioner shall
2 be subrogated to all of such governmental unit's right, title and
3 interest against the defaulting depository. All sums received from
4 any distribution of any liquidation of the defaulting depository shall
5 be paid to the affected governmental units to the extent of any un-
6 paid net deposit liability and the balance shall be paid to the public
7 depositories against which assessments were made, in proportion
8 to such assessments. If the commissioner incurs expense in enforce-
9 ing any such claim, the amount thereof shall be paid as a liquidation
10 expense of the defaulting depository.

1 7. The provisions of this act shall become operative on December
2 1, 1970, but the commissioner may issue appropriate regulations in
3 advance thereof.

1 8. This act shall be known and may be cited as the "Govern-
2 mental Unit Deposit Protection Act."

1 9. This act shall take effect immediately.

FROM THE OFFICE OF THE GOVERNOR

OCTOBER 27, 1970

FOR RELEASE:
IMMEDIATE

Chap 236
A bill to protect bank deposits of local government units was signed into law this morning when Governor William T. Cahill signed A 1249.

The bill protects municipalities, school districts, and county governments from loss due to failure of banks in which their funds are held. The bill was prompted as a result of the failure of the Eatontown National Bank earlier this year.

The bill was sponsored by Assemblyman Joseph E. Robertson, Republican district 5A and twelve other Assemblymen, both Democrat and Republican.

Under the terms of the bill, each bank is required to pledge, as security for the public funds it holds on deposit, collateral having a market value equal to 5% of the average funds on deposit during a six month period. If an institution fails, its eligible collateral is applied to payments of public funds on deposit and if the collateral is insufficient, other members of the group to which the bank belongs are assessed the amount of the deficiency.

Governor Cahill, who originally suggested the miniature FDIC, said that the enactment of the new law is a significant step in that it protects local taxpayers from loss in the event that a bank goes under and predicted that it would have a successful future in New Jersey.

There are safeguards for the banks built into the new law which stipulate that no bank can be assessed in excess of its maximum liability. It also provides that there will be two groups of deposit institutions; one comprised of state banks, national banks, and savings banks; the second comprised of savings and loan associations -- those

in the "bank" group that are not liable for any loss due to the failure of any "savings and loan" group and vice versa.

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