

CHAPTER 98 LAWS OF N. J. 1973
APPROVED 4-25-73

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 783

STATE OF NEW JERSEY

INTRODUCED MARCH 9, 1972

By Assemblymen ROBERTSON, DAWES, EVERS and KENNEDY

Referred to Committee on Banking

AN ACT to amend "An act concerning security for deposits of governmental units in banks, savings banks and savings and loan associations," approved October 27, 1970 (P. L. 1970, c. 236).

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

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

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

4 "Association" means any State or Federally chartered savings
5 and loan association.

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

13 "Commissioner" means the Commissioner of Banking;

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

16 "Eligible collateral" means obligations of or guaranteed by the
17 United States, obligations of or guaranteed by the State of New
18 Jersey, obligations of governmental units, including, but not limited
19 to, capital notes, bond anticipation notes, tax anticipation notes and
20 temporary notes or loan bonds, mortgages insured or guaranteed
21 by the United States of America or an instrumentality thereof as to
22 payment of principal and interest ***to the extent of such insur-
23 ance or guarantee***, ***[any other obligations authorized from
24 time to time by the commissioner pursuant to rule or regula-

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

25 tion,]*** and any other obligations now or hereafter authorized by
25A law as security for public deposits;

26 "Event of default" means issuance of an order of a supervisory
27 authority or of a receiver restraining a public depository from
28 making payments of deposit liabilities;

29 "Governmental unit" means any county, municipality, school
30 district or any public body corporate and politic created or estab-
31 lished under any law of this State by or on behalf of any one or
32 more counties or municipalities, or any board, commission, depart-
33 ment or agency of any of the foregoing having custody of funds;

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

39 "Net deposit liability" means the deposit liability of a defaulting
40 depository to a governmental unit after deduction of any deposit
41 insurance with respect thereto;

42 "Public depository" means a state bank, a national bank, a
43 savings bank or an association located in this State, the deposits of
44 which are insured by the Federal Deposit Insurance Corporation
45 or the Federal Savings and Loan Insurance Corporation, as the case
46 may be, and which receives or holds public funds on deposit;

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

48 "Valuation date" means December 31 and June 30.**

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

3 4. a. Every public depository having public funds on deposit
4 therein shall, as security for such deposits, maintain eligible col-
5 lateral having a market value at least equal to *either (1)* 5% of
6 the average daily balance of collected public funds on deposit during
7 the 6-month period ending on the next preceding valuation date, *or
7A (2), at the election of the depository, at least equal to 5% of the
7B average balance of collected public funds on deposit on the first,
7C eighth, fifteenth and twenty-second days of each month in the 6-
7D month period ending on the next preceding valuation date,* but
8 no public depository shall be required to maintain any eligible
9 collateral pursuant to this act as security for any deposit or de-
10 posits of any governmental unit to the extent that such deposit
11 or deposits are insured by the Federal Deposit Insurance Corpo-
12 ration or the Federal Savings and Loan Insurance Corporation
13 or by any other agency of the United States which insures deposits

14 *made in public depositories.* In the case of any public depository
15 which has not held public funds on deposit for all of such 6-month
16 period, the commissioner shall prescribe the amount of eligible
17 collateral required to be maintained. Depositories shall have the
18 right to make substitutions of eligible collateral at any time. The
19 income from eligible collateral shall belong to the public depository
20 without restriction.

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

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

39 d. The market value of eligible collateral maintained pursuant
40 to this section on any valuation date shall be presumed to be the
41 market value of such collateral until the next succeeding valuation
42 date.

1 ****[2.]**** ****3.**** This act shall take effect immediately.

ASSEMBLY, No. 783

STATE OF NEW JERSEY

INTRODUCED MARCH 9, 1972

By Assemblymen ROBERTSON, DAWES, EVERS and KENNEDY

Referred to Committee on Banking

AN ACT to amend "An act concerning security for deposits of governmental units in banks, savings banks and savings and loan associations," approved October 27, 1970 (P. L. 1970, c. 236).

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

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

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4 therein shall, as security for such deposits, maintain eligible col-
5 lateral having a market value at least equal to 5% of the average
6 daily balance of collected public funds on deposit during the 6-
7 month period ending on the next preceding valuation date. *but*
8 *no public depository shall be required to maintain any eligible*
9 *collateral pursuant to this act as security for any deposit or de-*
10 *posits of any governmental unit to the extent that such deposit*
11 *or deposits are insured by the Federal Deposit Insurance Corpo-*
12 *ration or the Federal Savings and Loan Insurance Corporation*
13 *or by any other agency of the United States which insures deposits*
14 *made in public depositories. In the case of any public depository*
15 *which has not held public funds on deposit for all of such 6-month*
16 *period, the commissioner shall prescribe the amount of eligible*
17 *collateral required to be maintained. Depositories shall have the*
18 *right to make substitutions of eligible collateral at any time. The*
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31 Bank of Philadelphia, the Federal Home Loan Bank of New York,
32 as the case may be, or with any other banking institution located
33 in this State or a contiguous state which is a member of the Federal
34 Reserve System and has capital funds of not less than
35 \$25,000,000.00.

36 d. The market value of eligible collateral maintained pursuant
37 to this section on any valuation date shall be presumed to be the
38 market value of such collateral until the next succeeding valuation
39 date.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to provide that no collateral need be posted by public depositories for deposits of governmental units to the extent that such deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 783

STATE OF NEW JERSEY

ADOPTED MARCH 27, 1972

Amend page 1, section 1, line 5, after "to", insert "either (1)".

Amend page 1, section 1, line 7, after "date," insert "or (2), at the election of the depository, at least equal to 5% of the average balance of collected public funds on deposit on the first, eighth, fifteenth and twenty-second days of each month in the 6-month period ending on the next preceding valuation date,".

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7D month period ending on the next preceding valuation date,* but
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11 or deposits are insured by the Federal Deposit Insurance Corpo-
12 ration or the Federal Savings and Loan Insurance Corporation
13 or by any other agency of the United States which insures deposits
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15 which has not held public funds on deposit for all of such 6-month
16 period, the commissioner shall prescribe the amount of eligible
17 collateral required to be maintained. Depositories shall have the
18 right to make substitutions of eligible collateral at any time. The
19 income from eligible collateral shall belong to the public depository
20 without restriction.

21 b. No public depository shall at any time receive and hold on
22 deposit for any period in excess of 15 days public funds of a gov-

23 ermental unit or governmental units which, in the aggregate,
24 exceed 75% of the capital funds of the depository, unless such
25 depository shall, in addition to the security required to be main-
26 tained under paragraph a. of this section, secure such excess by
27 eligible collateral with a market value at least equal to 100% of
28 such excess.

29 c. All collateral required to be maintained shall be deposited
30 with the Federal Reserve Bank of New York, the Federal Reserve
31 Bank of Philadelphia, the Federal Home Loan Bank of New York,
32 as the case may be, or with any other banking institution located
33 in this State or a contiguous state which is a member of the Federal
34 Reserve System and has capital funds of not less than
35 \$25,000,000.00.

36 d. The market value of eligible collateral maintained pursuant
37 to this section on any valuation date shall be presumed to be the
38 market value of such collateral until the next succeeding valuation
39 date.

1 2. This act shall take effect immediately.

SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 783

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: MAY 11, 1972

This bill amends a section of the Governmental Unit Deposit Protection Act (C. 17:9-44) to provide that no collateral need be maintained against deposits by governmental units in public depositories to the extent that such deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or by any other agency of the United States which insures deposits made in public depositories. The bill would also permit public depositories to compute the basis for determining their collateral requirements by averaging governmental unit deposits on hand on the 1st, 8th, 15th and 22nd of each month, instead of using the average daily balance of such funds as is currently provided. The alternate method for computing the collateral requirements was added by committee amendment by the General Assembly Banking Committee.

Additional amendments to the bill have been proposed to the committee. The amendments would provide that VA and FHA mortgages, and any other obligations authorized from time to time by the Commissioner of Banking could be used as collateral for deposits of funds by governmental units, and to authorize the commissioner to determine the manner in which the required collateral shall be held and maintained by public depositories notwithstanding the manner presently outlined in the law. These amendments were adopted by the committee.

SENATE COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 783

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED MAY 11, 1972

Amend page 1, before section 1, insert a new section 1 to read as follows:

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

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

“Association” means any State or Federally chartered savings and loan association.

“Capital funds” means (a) in the case of a state bank or national bank the aggregate of the capital stock, surplus and undivided profits of the bank; (b) in the case of a savings bank the aggregate of the capital deposits, if any, and the surplus of the savings bank; and (c) in the case of an association, the aggregate of all reserves required by any law or regulations, and the undivided profits, if any, of the association;

“Commissioner” means the Commissioner of Banking;

“Defaulting depository” means a public depository as to which an event of default has occurred;

“Eligible collateral” means obligations of or guaranteed by the United States, obligations of or guaranteed by the State of New Jersey, obligations of governmental units, including, but not limited to, capital notes, bond anticipation notes, tax anticipation notes and temporary notes or loan bonds, mortgages insured or guaranteed by the United States of America or an instrumentality thereof as to payment of principal and interest, any other obligations authorized from time to time by the commissioner pursuant to rule or regulation, and any other obligations now or hereafter authorized by law as security for public deposits;

“Event of default” means issuance of an order of a supervisory authority or of a receiver restraining a public depository from making payments of deposit liabilities;

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

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

“Net deposit liability” means the deposit liability of a defaulting depository to a governmental unit after deduction of any deposit insurance with respect thereto;

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

“Public funds” means the funds of any governmental unit;

“Valuation date” means December 31 and June 30.”.

Amend page 1, section 1, line 1, omit “1.”, insert “2.”.

Amend page 2, section 1, line 35, after “\$25,000,000.00.”, insert “Notwithstanding the foregoing, the commissioner may authorize public depositories to hold and maintain the required collateral in such a manner as he deems consistent with the purposes of this act.”.

Amend page 2, section 2, line 1, omit “2.”, insert “3.”.

[SENATE REPRINT]
ASSEMBLY, No. 783
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With Senate Committee Amendments, Adopted May 11, 1972

STATE OF NEW JERSEY

INTRODUCED MARCH 9, 1972

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Referred to Committee on Banking

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9 *of the capital deposits, if any, and the surplus of the savings bank;*
10 *and (c) in the case of an association, the aggregate of all reserves*
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12 *any, of the association;*

13 "Commissioner" *means the Commissioner of Banking;*

14 "Defaulting depository" *means a public depository as to which*
15 *an event of default has occurred;*

16 "Eligible collateral" *means obligations of or guaranteed by the*
17 *United States, obligations of or guaranteed by the State of New*
18 *Jersey, obligations of governmental units, including, but not limited*
19 *to, capital notes, bond anticipation notes, tax anticipation notes and*
20 *temporary notes or loan bonds, mortgages insured or guaranteed*
21 *by the United States of America or an instrumentality thereof as to*
22 *payment of principal and interest, any other obligations authorized*
23 *from time to time by the commissioner pursuant to rule or regula-*

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

24 tion, and any other obligations now or hereafter authorized by law
25 as security for public deposits;

26 "Event of default" means issuance of an order of a supervisory
27 authority or of a receiver restraining a public depository from
28 making payments of deposit liabilities;

29 "Governmental unit" means any county, municipality, school
30 district or any public body corporate and politic created or estab-
31 lished under any law of this State by or on behalf of any one or
32 more counties or municipalities, or any board, commission, depart-
33 ment or agency of any of the foregoing having custody of funds;

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

39 "Net deposit liability" means the deposit liability of a defaulting
40 depository to a governmental unit after deduction of any deposit
41 insurance with respect thereto;

42 "Public depository" means a state bank, a national bank, a
43 savings bank or an association located in this State, the deposits of
44 which are insured by the Federal Deposit Insurance Corporation
45 or the Federal Savings and Loan Insurance Corporation, as the case
46 may be, and which receives or holds public funds on deposit;

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48 "Valuation date" means December 31 and June 30.**

1 **[1.]** **2.** Section 4 of P. L. 1970, c. 236 (C. 17:9-44) is
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16 period, the commissioner shall prescribe the amount of eligible
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18 right to make substitutions of eligible collateral at any time. The
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21 b. No public depository shall at any time receive and hold on
22 deposit for any period in excess of 15 days public funds of a gov-
23 ernmental unit or governmental units which, in the aggregate,
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25 depository shall, in addition to the security required to be main-
26 tained under paragraph a. of this section, secure such excess by
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28 such excess.

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

39 d. The market value of eligible collateral maintained pursuant
40 to this section on any valuation date shall be presumed to be the
41 market value of such collateral until the next succeeding valuation
42 date.

1 ****[2.]**** ****3.**** This act shall take effect immediately.

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INTRODUCED MARCH 9, 1972

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30 district or any public body corporate and politic created or estab-
31 lished under any law of this State by or on behalf of any one or
32 more counties or municipalities, or any board, commission, depart-
33 ment or agency of any of the foregoing having custody of funds;

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1 ****[2.]** **3.**** This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 783
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED APRIL 2, 1973

Amend page 1, section 1, line 22, after "interest", insert "to the extent of such insurance or guarantee".

Amend page 1, section 1, lines 22-24, delete "any other obligations authorized from time to time by the commissioner pursuant to rule or regulation,".

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

February 22, 1973

ASSEMBLY BILL NO. 783 (2nd OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 783 (2nd OCR), with my objections, for reconsideration.

This bill would amend the Governmental Unit Deposit Protection Act (C. 17:9-44) to provide that no collateral shall be required to secure any public deposit to the extent that such a deposit is insured by the Federal Deposit Insurance Corporation or any other federal agency which insures deposits. It also establishes an alternate method of computing the amount of security required under the act, and expands the definition of "eligible collateral" under the act to include "mortgages insured by the United States of America or an instrumentality thereof as to payment of principal and interest" and "any other obligations authorized from time to time by the commissioner [of Banking] pursuant to rule or regulation." Finally, the Commissioner of Banking is empowered to authorize the required collateral to be held in such manner as he deems consistent with the purpose of the act, in addition to the current statutorily approved methods of holding collateral.

I agree with the purpose of this bill, and I believe that it will allow the financial institutions of this State greater flexibility while still guaranteeing adequate security for deposits of public funds. It is my opinion, however, that the bill should be amended to allow only the actually insured or guaranteed portions of federally insured or guaranteed mortgages to be used as collateral for public deposits. Furthermore, I believe that the power to determine the types of obligations which may be used as collateral for the security of public deposits should not be delegated to an administrative agency.

Accordingly, I herewith return Assembly Bill No. 783 (2nd OCR) without my approval, and recommend that it be amended as follows:

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Assembly Bill No. 783 (2nd OCR)

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1. Page 1, Section 1, Line 22: After "interest" insert "to the extent of such insurance or guarantee".
2. Page 1, Section 1, Lines 22 - 24: Delete "any other obligations authorized from time to time by the commissioner pursuant to rule or regulation,".

Respectfully,

/s/ WILLIAM T. CAHILL

GOVERNOR

[seal]

Attest:

/s/ Jean E. Mulford

Acting Secretary to the Governor