

CHAPTER 59

GOVERNMENT - STATE

HOUSE BILL 00-1154

BY REPRESENTATIVE Smith;
also SENATOR Teck.

AN ACT

CONCERNING THE AUTHORITY OF PUBLIC ENTITIES TO ENTER INTO SECURITIES LENDING AGREEMENTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-75-601, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-75-601. Definitions. As used in this part 6, unless the context otherwise requires:

(2.5) "QUALIFIED PROVIDER" MEANS EITHER A STATE BANK LOCATED IN THE STATE OF COLORADO OR A NATIONAL BANK, EITHER ONE OF WHICH:

- (a) IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION;
- (b) HAS A LONG-TERM DEBT RATING OF "A" OR BETTER FROM AT LEAST TWO NATIONALLY RECOGNIZED RATING ORGANIZATIONS;
- (c) IS FINANCIALLY AND OPERATIONALLY STABLE AS DETERMINED BY THE PUBLIC ENTITY;
- (d) HAS AT LEAST ONE OTHER PUBLIC FUND CUSTOMER PARTICIPATING IN ITS SECURITIES LENDING PROGRAM; AND
- (e) HAS A SECURITIES LENDING PROGRAM IN PLACE FOR A MINIMUM OF THREE YEARS.

SECTION 2. 24-75-601.1 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

24-75-601.1. Legal investments of public funds. (1) It is lawful to invest public funds in any of the following securities if the period from the date of purchase of such security to its maturity date is five years or less or if the governing body of the public entity authorizes investment for such period in excess of five years:

(n) A SECURITIES LENDING AGREEMENT USING ANY SECURITIES AUTHORIZED IN PARAGRAPH (a) OR (b) OF THIS SUBSECTION (1) IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(I) THE SECURITIES LENDING AGREEMENT IS ENTERED INTO WITH A QUALIFIED PROVIDER;

(II) THE SECURITIES LENDING AGREEMENT REQUIRES THE QUALIFIED PROVIDER TO PROVIDE AND MAINTAIN COLLATERAL WITH A MUTUALLY AGREED-UPON CUSTODIAN. SUCH COLLATERAL SHALL BE IN THE FORM OF EITHER CASH, WHICH THE QUALIFIED PROVIDER MAY INVEST IN A PERMITTED INVESTMENT STATED IN THE SECURITIES LENDING AGREEMENT, OR SECURITIES THAT ARE AUTHORIZED INVESTMENTS FOR THE PUBLIC ENTITY. SUCH COLLATERAL SHALL HAVE A VALUE THAT IS EQUAL TO OR GREATER THAN ONE HUNDRED TWO PERCENT OF THE VALUE OF THE SECURITIES LENT BY THE PUBLIC ENTITY PLUS ANY ACCRUED INTEREST. IF THE COLLATERAL IS IN THE FORM OF CORPORATE SECURITIES, THE COLLATERAL SHALL HAVE A VALUE THAT IS EQUAL TO OR GREATER THAN ONE HUNDRED FIVE PERCENT OF THE VALUE OF THE SECURITIES.

(III) EITHER THE CUSTODIAN OR THE QUALIFIED PROVIDER IF VERIFIED BY THE CUSTODIAN MARKS TO MARKET DAILY THE VALUE OF THE COLLATERAL WITH ALL DIFFERENCES IN VALUATION RESOLVED ON A DAILY BASIS; EXCEPT THAT, IF ALL OF THE COLLATERAL IS CASH, THE DIFFERENCE IN VALUATION NEED ONLY BE RESOLVED AT SUCH TIME AS THE VALUE OF THE COLLATERAL IS LESS THAN ONE HUNDRED PERCENT OF THE VALUE OF THE SECURITIES;

(IV) WITH RESPECT TO PERMITTED INVESTMENTS PURCHASED WITH CASH RECEIVED AS COLLATERAL TO A SECURITIES LENDING AGREEMENT:

(A) A MINIMUM OF TWENTY PERCENT OF SUCH PERMITTED INVESTMENTS MATURES OR IS REDEEMABLE ON ANY BUSINESS DAY;

(B) A PERMITTED INVESTMENT IN THE FORM OF AN INSTRUMENT THAT IS ISSUED OR GUARANTEED BY THE UNITED STATES GOVERNMENT OR ANY AGENCY THEREOF AND THAT HAS A VARIABLE RATE OF INTEREST SET OFF OF A MONEY MARKET INDEX, READJUSTED NO LESS FREQUENTLY THAN EVERY NINETY-FIVE DAYS, IS TREATED, FOR PURPOSES OF THIS PARAGRAPH (n), AS HAVING A MATURITY EQUAL TO THE PERIOD REMAINING UNTIL THE NEXT READJUSTMENT OF THE INTEREST RATE;

(C) A PERMITTED INVESTMENT IN THE FORM OF AN INSTRUMENT THAT IS ISSUED BY A CORPORATION THAT HAS A VARIABLE RATE OF INTEREST SET OFF OF A MONEY MARKET INDEX, READJUSTED NO LESS FREQUENTLY THAN EVERY NINETY-FIVE DAYS, IS A FINAL MATURITY NOT TO EXCEED FOUR HUNDRED THIRTY DAYS OR AN UNCONDITIONAL PUT BACK TO THE ISSUER NOT TO EXCEED NINETY-FIVE DAYS;

(D) THE MAXIMUM MATURITY ON ANY FIXED RATE INVESTMENTS OR REPURCHASE AGREEMENTS DOES NOT EXCEED ONE HUNDRED NINETY DAYS; AND

(E) THE INVESTMENT MATURITY OR RESET DATE FOR SUCH PERMITTED INVESTMENT IS NOT GREATER THAN NINETY-FIVE DAYS UNLESS THE SECURITIES LENDING AGREEMENT TERM AND THE PERMITTED INVESTMENT ARE MATCHED TO EACH OTHER.

(V) IN THE CASE OF LOCAL GOVERNMENT, THE SECURITIES LENDING AGREEMENT IS APPROVED AND DESIGNATED BY WRITTEN RESOLUTION DULY ADOPTED BY A MAJORITY VOTE OF THE GOVERNING BODY OF SUCH LOCAL GOVERNMENT, WHICH RESOLUTION SHALL BE RECORDED IN ITS MINUTES.

SECTION 3. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 17, 2000