

Chapter 295

1977 REPLACEMENT PART (1979 Reprint)

Depositories of Public Funds and Securities

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295.005 Definitions for ORS 295.015 and 295.025 to 295.165. As used in this section, ORS 295.015 and 295.025 to 295.165, unless the context requires otherwise:

(1) "Certificate of participation" or "certificate" means a nonnegotiable document issued by a pool manager to a public official.

(2) "Custodian bank" or "custodian" means the following institutions designated by the depository bank for its own account:

(a) The Portland Branch of the Federal Reserve Bank of San Francisco;

(b) Any bank or trust company, mutual savings bank or savings and loan association doing business in this state, except the depository bank with respect to its own securities;

(c) Any bank or trust company not located in this state but authorized to act as trustee in this state; and

(d) The fiscal agency of the State of Oregon in the City and State of New York, duly appointed and acting as such agency pursuant to ORS 288.010 to 288.110.

(3) "Custodian's receipt" or "receipt" means a document issued by a custodian bank to a pool manager describing the securities deposited with it by a depository bank to secure public fund deposits.

(4) "Depository bank" or "depository" means any bank or trust company, mutual savings bank or savings and loan association authorized to do business in this state in the capacity of a bank or trust company, mutual savings bank or savings and loan association.

(5) "Pool manager" means:

(a) The State Treasurer; or

(b) Any trust company, bank or mutual savings bank legally engaged in trust business, as that term is defined in subsection (24) of ORS 706.005 at an office in this state; but a depository bank shall not be a pool manager with respect to securities that it deposits with its custodians as collateral for the security of public fund deposits.

(6) "Public funds" or "funds" means the funds under the control or in the custody of a public official by virtue of his office, other than those which, pursuant to law other than this section, ORS 295.015 and 295.025 to 295.165, are invested in authorized investments or are deposited for the purpose of meeting the payment of principal or interest on bonds or like obligations.

(7) "Security" or "securities" means:

(a) Obligations of the United States, including those of its agencies and instrumentalities;

(b) Obligations of the International Bank for Reconstruction and Development;

(c) Bonds of any state of the United States (A) that are rated in one of the four highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating state and municipal bonds or, (B) having once been so rated are ruled, pursuant to ORS 295.095, to be eligible securities for the purposes of this section, ORS 295.015 and 295.025 to 295.165, notwithstanding the loss of such rating;

(d) Bonds of any county, city, school district, port district or other public body in the United States payable from ad valorem taxes levied generally on substantially all property within the issuing body and that meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(e) Bonds of any county, city, school district, port district or other public body issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county or city within the State of Oregon, if the issuing body has not been in default with respect to the payment of principal or interest on any of its bonds within the preceding 10 years or during the period of its existence if that is less than 10 years; and

(f) Notes issued by a municipality under ORS 287.526 and bond anticipation notes issued, sold or assumed by an authority under ORS 441.560.

(8) "Public official" means each officer or employe of this state or any agency, political subdivision or public corporation thereof who by law is made the custodian of or has control of any public funds.

(9) "Value" means the value of securities at the most recent valuation date, as provided in ORS 295.095, or, if issued thereafter, market value at the date of issue. [1967 c 451 §1; 1973 c 157 §4, 1973 c 288 §2, 1973 c.378 §1, 1973 c 797 §426; 1975 c.515 §8]

295.010 [Amended by 1953 c.352 §3; 1957 c.172 §1; 1965 c.169 §1, repealed by 1967 c 451 §32]

295.015 Maintenance of securities by depository required. Except as provided in ORS 295.018:

(1) Each depository throughout the period

of its possession of public fund deposits shall maintain on deposit with its custodians, at its own expense, securities having a value not less than 25 percent of the certificates of participation issued by its pool manager.

(2) The depository may deposit other eligible securities with its custodian and withdraw from deposit securities theretofore pledged to secure deposits of public funds, if the remaining securities have a value not less than 25 percent of outstanding certificates of participation of the pool manager. The pool manager shall execute such releases and surrender such custodian's receipts as are appropriate to effect substitutions and withdrawals of excess pledged securities. [1967 c.451 §2; 1975 c.515 §3]

295.018 Increase in required collateral of depository; notification; effect of failure to increase collateral. (1) The State Treasurer may require any depository bank during any period when it has in its possession public fund deposits to maintain on deposit with its custodians securities having a value not less than 110 percent of the certificates of participation issued by its pool manager. The increase in collateral shall be ordered upon the advice of the Superintendent of Banks.

(2) Failure of the Superintendent of Banks to inform the State Treasurer of the condition of any depository does not give any public depositor any right or impose any liability on the superintendent. The State Treasurer shall not be liable to any public depositor or to any depository bank for increasing or not increasing the collateral requirement as authorized in subsection (1) of this section.

(3) Any depository bank notified by the State Treasurer of the increased collateral requirement shall comply with the order within 10 business days by increasing the collateral in the same manner as required for the initial deposit of collateral in ORS 295.015. The bank shall notify the State Treasurer of its compliance by supplying copies of the custodian's receipts for the increased collateral.

(4) If any depository bank notified by the State Treasurer of an increased collateral requirement fails to notify the State Treasurer of compliance therewith within 10 business days, the State Treasurer shall immediately notify the Superintendent of Banks of the failure and shall send notice to all public depositors served by that depository bank of its failure to comply.

(5) A depository bank described in subsection (4) of this section shall accept no further public deposits. [1975 c.515 §2]

295.020 [Repealed by 1967 c.451 §32]

295.022 Collateral not required for deferred compensation funds. Notwithstanding any other provision of this chapter, when a bank, mutual savings bank or savings and loan association receives funds from the state for deposit or investment under the deferred compensation program established under ORS 243.400 to 243.495, the institution shall not have to maintain the collateral required under this chapter for those deferred compensation program funds. [1977 c.721 §15]

295.025 Retention of cash working fund by public official; deposit of remaining public funds. (1) Any public official may retain undeposited such reasonable cash working fund as is fixed by the governing body of the political subdivision or public corporation for which he acts. Except to the extent of such cash working fund, each public official shall deposit public funds in his custody or control in one or more depositories currently qualified pursuant to ORS 295.005, 295.015 and 295.025 to 295.165. He shall not have on deposit in any one depository bank and its branches a sum in excess of the amount insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, without procuring certificates of participation issued by the pool manager of the depository in an amount equal to the excess deposit. His compliance with ORS 295.005, 295.015 and 295.025 to 295.165 relieves the public official of personal liability on account of the loss of the public funds in his custody or control.

(2) Whenever a public official holds a certificate of participation issued by a pool manager in an amount exceeding the amount required by subsection (1) of this section, upon the written request of the depository bank he shall surrender it to the pool manager or direct the pool manager in writing to cancel it in whole or in a designated part. [1967 c.451 §3; 1973 c.288 §3]

295.030 [Repealed by 1967 c.451 §32]

295.035 Issuance of custodian's receipt for securities. Upon receipt of securities from the depository bank, the custodian bank shall issue to the pool manager designat-

ed by the depository a custodian's receipt describing the securities. [1967 c.451 §4]

295.040 [Amended by 1959 c.330 §1; 1963 c.128 §1; 1965 c.629 §1; repealed by 1967 c.451 §32]

295.045 Designation of pool managers; procedure for changing managers. Each depository bank shall designate one or more pool managers as provided in ORS 295.005, 295.015 and 295.025 to 295.165; but it shall designate only one pool manager to function with respect to the public fund deposits and the security therefor of a single public official. If the depository elects to change pool managers, the public official shall surrender certificates of participation issued by the former pool manager in exchange for certificates of like amount issued by the successor pool manager, and the former pool manager shall cause the custodian to deliver to the successor pool manager custodian's receipts for security no longer required to support its outstanding certificates of participation. Such transactions may be arranged by escrows or otherwise, as the parties agree. [1967 c.451 §5]

295.050 [Repealed by 1967 c.451 §32]

295.055 Depository bank to inform State Treasurer of its custodian banks and pool managers. Each depository bank shall keep on file with the State Treasurer the names and addresses of each of its custodian banks and pool managers. [1967 c.451 §6]

295.060 [Repealed by 1967 c.451 §32]

295.065 Duties of pool manager. Each pool manager shall:

(1) Maintain an accurate inventory of the securities of each depository bank described in the custodian's receipts transmitted to it from custodian banks, and adjust the inventory to reflect withdrawals and substitutions of securities previously inventoried.

(2) Appraise the value of the securities added to and withdrawn from the inventory of the depository bank, and appraise the value of the entire inventory of the depository on October 1 of each year and at such other times as it is directed to do so by the State Treasurer.

(3) Issue certificates of participation to public officials in amounts designated by the depository bank and, upon the direction of the depository bank and the written consent of the public official to whom it is issued, reduce, modify or cancel a certificate.

(4) Notify in writing holders of certificates of participation in the collateral of a deposito-

ry bank whenever, after 10 days' notice to the depository bank, the value of the securities continues to be less than 25 percent of outstanding certificates.

(5) Notify the State Treasurer of the occurrence whenever a bond in the inventory of a depository bank loses its rating requirement provided in paragraphs (c) and (d) of subsection (7) of ORS 295.005. [1967 c.451 §7, 1973 c.378 §2; 1975 c.515 §4]

295.070 [Repealed by 1967 c.451 §32]

295.075 [1965 c.629 §3; repealed by 1967 c.451 §32]

295.080 [Amended by 1959 c.330 §2; 1963 c.520 §2; 1967 c.335 §33; repealed by 1967 c.451 §32]

295.085 Requiring special certification of collateral value. If, in the opinion of the State Treasurer, market conditions so indicate, he may require certification of collateral value in accordance with ORS 295.065 at other times throughout the year. The decision to request a special certification shall be solely at the discretion of the State Treasurer. [1967 c.451 §8]

295.090 [Amended by 1959 c.330 §3; repealed by 1967 c.451 §32]

295.095 Valuation committee; appointment; duties; compensation and expenses; report to govern appraisal of securities by pool managers. (1) Not later than January 15 of each year, the State Treasurer shall appoint a committee of not less than three nor more than five individuals to serve without compensation as a valuation committee. Within 15 days after September 30 of each year and within 15 days after any date specified by the State Treasurer, which dates shall be known as valuation dates, the committee shall establish means for the determination of the value of eligible securities based on quality, coupon rate, maturity and yields on similarly rated securities or on bonds of similar quality. Each member of the committee must be a resident of this state and have experience in bond market transactions or analysis. The membership of the committee must include one or more officers of banks or trust companies. Whenever the number of the members of the committee is less than five, the State Treasurer may appoint an additional member for a term expiring on the following January 15. Members are entitled to compensation and expenses as provided in ORS 292.495.

(2) Each report of the committee shall include its determination with respect to the

continued eligibility as collateral of all bonds reported to the State Treasurer pursuant to subsection (5) of ORS 295.065 since the publication of the committee's last preceding report and appropriate criteria for use in the valuation of such of those bonds as are determined to be eligible.

(3) Pool managers shall appraise securities in accordance with the report of the committee currently in effect.

(4) The findings of the committee shall be published or otherwise made available from time to time as the State Treasurer determines to be appropriate and necessary for the purpose of advising depository banks and pool managers. [1967 c 451 §9; 1969 c.314 §20; 1973 c.378 §3]

295.100 [Repealed by 1967 c.451 §32]

295.105 Effect of deposit of securities; procedure in case of default of depository bank. (1) The deposit of securities by a depository bank with its custodian pursuant to ORS 295.005, 295.015 and 295.025 to 295.165 constitutes consent by the depository to the disposition of the securities in accordance with this section.

(2) When a depository is closed by order of the Superintendent of Banks or the Comptroller of the Currency, the State Treasurer shall:

(a) Demand and receive from the pool manager the custodian's receipts; and

(b) Demand and receive from the custodian the securities pledged to secure deposits of public funds and, with the advice and counsel of the valuation committee, liquidate in an orderly manner the securities or such thereof as he may determine advisable at public or private sale and distribute the proceeds as provided in this section.

(3) Each public official shall advise the State Treasurer of the amount of his deposits in the defaulted depository bank, and the State Treasurer shall proceed to determine the total amount of the claims payable out of the collateral of the depository. The claim of a public official for purposes of this section shall be the lesser of:

(a) The amount of his deposits plus interest to the date the funds are distributed to the public official at the rate the depository agreed to pay on the funds reduced by the portion thereof which is insured by the Federal Deposit Insurance Corporation; or

(b) The amount of his certificates of participation.

(4) The State Treasurer shall distribute the net proceeds of the collateral, to the extent that they do not exceed the total claims, among the public officials entitled thereto in proportion to their respective claims. The State Treasurer shall remit to the depository bank any of its collateral or the proceeds thereof in excess of the amount so distributable to public officials.

(5) If the net proceeds of the collateral are inadequate, after all other available sources are applied, to meet the total claims of the public officials entitled thereto, the public officials may make claims against the depository bank as general creditors.

(6) The State Treasurer, in accordance with ORS 183.310 to 183.500, shall adopt rules to carry out this section. [1967 c.451 §10; 1973 c 438 §1; 1975 c.515 §5]

295.110 [Amended by 1953 c.352 §3; repealed by 1967 c 451 §32]

295.115 Limit on amount deposited in single institution; time deposits. (1) No greater amount of money than 35 percent of the total of the moneys on demand deposit in banks and trust companies at any one time shall be deposited by or at the direction of the State Treasurer in any one bank or trust company and its branches. In case of emergency, the State Treasurer may exclude unemployment funds and commitments on investments to ascertain the total of the moneys on demand deposit.

(2) Any depository may offer in writing to accept from the State Treasurer time deposits without limitation in amount or in an aggregate amount therein stated and to pay interest on the time deposits at rates specified in the offer. The offer shall be a continuing offer until it is modified or withdrawn by notice in writing delivered or mailed by registered or certified mail to the State Treasurer. While the offer continues in effect, the depository is bound to accept upon the terms therein specified time deposits tendered by the State Treasurer.

(3) Any funds deposited by the State Treasurer on a time basis shall be deposited at the highest rate of interest available for the amount and term of the deposit.

(4) The State Treasurer shall apportion, fairly and equitably among depositories, time deposits of such funds under his control as are

available for such deposits. In the apportionment of time deposits, the State Treasurer shall take into account the offers of depositories to accept time deposits and, while offers upon terms no less favorable remain open, the State Treasurer shall avoid continued deposits of more than 35 percent of funds available for time deposit in any one bank. [1967 c.451 §11]

295.120 [Amended by 1953 c.352 §3; repealed by 1967 c.451 §32]

295.125 Deposits for terms not exceeding two years; interest; retention of sum by State Treasurer to pay current obligations. (1) (a) Subject to subsection (1) of ORS 295.115, the State Treasurer may deposit moneys not required to meet current demands for a term not to exceed two years at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the State Treasurer and any depository bank or banks in the state.

(b) All interest received on deposits of moneys under this subsection shall accrue to and become a part of the General Fund as required by ORS 293.140.

(2) (a) Notwithstanding subsection (1) of ORS 295.115, the State Treasurer may deposit moneys of any of the funds mentioned in subsection (2) of ORS 293.701, except moneys deposited under subsection (1) of this section, at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the State Treasurer and any depository bank or banks in the state.

(b) Notwithstanding ORS 293.140, all interest received on deposits of moneys under this subsection shall accrue to and become a part of the fund the moneys of which were deposited.

(3) The State Treasurer may retain on hand in the state vault or, subject to subsection (1) of ORS 295.115, in the active depository, the sum he considers necessary as a reserve for the purpose of paying the current obligations and appropriations of the state.

[1967 c.451 §12b]

295.130 [Amended by 1953 c.352 §3; repealed by 1967 c.451 §32]

295.135 Designation of active depository; collection for claims due state. (1) The State Treasurer may designate a bank or trust company in Salem or a bank or trust company in Portland as an active depository for the collection of drafts, checks, certificates

of deposit and coupons received by him on account of any claim due the state.

(2) The State Treasurer, on receipt of any draft, check or certificate of deposit, on account of a claim due the state, may place it in the active depository for collection. The active depository shall collect it without delay, without charge for its services for the collection or for exchange, and shall notify the State Treasurer when collected. The compensation to be paid by the active depository shall be fixed by the State Treasurer upon the best terms obtainable for the state. [1967 c.451 §13]

295.140 [Repealed by 1953 c.352 §3]

295.145 Division of State Lands to invest proceeds from sales of public lands. Nothing in ORS 295.005, 295.015 and 295.025 to 295.165 deprives the Division of State Lands of the power to invest or dispose of the funds derived from the sale of public lands as provided by law. [1967 c.451 §14]

295.150 [Repealed by 1967 c.451 §32]

295.155 Preference in selecting depositories for political subdivision; apportioning funds; interest. (1) In selecting banks or trust companies to act as depositories, public officials are not limited to the appointment of banks or trust companies in any particular locality; but if banks or trust companies are engaged in business at an office or offices within the corporate limits of the political subdivision or public corporation and qualify to receive the funds, such depositories shall be given preference. If there is more than one such local qualifying depository, the depositing public official shall apportion the funds in his hands to such depositories in a manner that is equitable and in the best interests of the political subdivision or public corporation.

(2) The depositories shall be required to pay to the political subdivision or public corporation upon deposits evidenced by certificates of deposit or deposits which by agreement may not be withdrawn on less than 30 days' notice, interest at such rate or rates as shall be agreed upon between the governing body of the political subdivision or public corporation and the depository.

(3) All interest received on deposits of moneys under this section shall accrue to and become a part of the fund the moneys of which were deposited.

(4) This section does not apply to the State Treasurer. [1967 c.451 §15]

295.160 [Repealed by 1967 c.451 §32]

295.165 Depositing moneys with treasurer of political subdivision. Any public official may deposit moneys coming into his hands in connection with his official duties with the treasurer of the political subdivision or public corporation concerned and obtain his receipt therefor. [1967 c.451 §16]

295.170 [Repealed by 1967 c 451 §32]

295.175 Revolving fund for State Treasurer as pool manager. The cost and expense of the State Treasurer in acting as a pool manager shall be paid to the State Treasurer by the depository bank using his services as pool manager. The State Treasurer, under rules and regulations to be adopted by him pursuant to ORS 183.310 to 183.500, shall deposit funds so received in a revolving fund, which fund is hereby established, and may require advance deposits to be made into said fund by any depository bank. The moneys credited to the revolving fund established pursuant to this section are continuously appropriated for the payment of expenses incurred in the administration of ORS 295.005, 295.015 and 295.025 to 295.165. [1967 c.451 §30]

295.180 [Repealed by 1967 c.451 §32]

295.190 [Repealed by 1967 c.451 §32]

295.200 [Repealed by 1967 c.451 §32]

295.210 [Repealed by 1967 c.451 §32]

295.220 [Repealed by 1967 c 451 §32]

295.230 [Repealed by 1967 c.451 §32]

295.240 [Repealed by 1967 c.451 §32]

295.410 [Repealed by 1967 c.451 §32]

295.420 [Repealed by 1967 c.451 §32]

295.430 [Repealed by 1967 c.451 §32]

295.440 [Amended by 1957 c.171 §1; 1965 c.169 §2; repealed by 1967 c.451 §32]

295.450 [Repealed by 1967 c.451 §32]

295.460 [Repealed by 1967 c.451 §32]

295.470 [Repealed by 1967 c.451 §32]

295.480 [Repealed by 1967 c.451 §32]

295.490 [Amended by 1963 c 502 §5; repealed by 1967 c.451 §32]

295.500 [Repealed by 1967 c.451 §32]

295.510 [Repealed by 1967 c.451 §32]

295.520 [Repealed by 1967 c.451 §32]

295.530 [Repealed by 1967 c.451 §32]

295.990 [Repealed by 1967 c.451 §32]

295.991 [1967 c.451 §18; repealed by 1971 c.743 §432]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law.

Done at Salem, Oregon,

October 1, 1977.

Thomas G. Clifford

Legislative Counsel

CHAPTER 296 [Reserved for expansion]