

Chapter 295

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Depositories of Public Funds and Securities

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CROSS REFERENCES

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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) The Federal Home Loan Bank of Seattle;

(c) Any bank or trust company, mutual savings bank or savings and loan association doing business in this state. With the approval of the State Treasurer, a depository bank may be a custodian bank with respect to its own securities;

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

(e) 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 which maintains a head office or a branch 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;

(b) Any trust company, bank or mutual savings bank legally engaged in the business of a trust company, as that term is defined in ORS 706.005 (25) 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; or

(c) The Federal Reserve Bank of San Francisco or any branch thereof.

(6) "Public funds" or "funds" means the funds under the control or in the custody of a public official by virtue of 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;

(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;

(g) One-family to four-family housing mortgage loan notes related to property situated in the State of Oregon, which are owned by a depository bank, no payment on which is more than 90 days past due, and which are eligible collateral for loans from the Federal Reserve Bank of San Francisco under section 10(b) of the Federal Reserve Act and regulations thereunder;

(h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or Federal Reserve bank;

(i) Debt obligations of domestic corporations that are rated in one of the three 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 corporate debt obligations;

(j) Collateralized mortgage obligations and real estate mortgage investment conduits that are rated in one of the two 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 corporate debt obligations; and

(k) One-family to four-family housing mortgages that have been secured by means of a guarantee as to full repayment of principal and interest by an agency of the United States Government, including the Government National Mortgage Association, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(8) "Public official" means each officer or employee 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; 1981 c.440 §2; 1983 c.104 §3; 1983 c.456 §4; 1985 c.439 §1; 1985 c.565 §51; 1987 c.524 §1; 1989 c.536 §1]

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 Director of the Department of Insurance and Finance. If the depository bank is a federally chartered savings and loan association, in giving its advice to the State Treasurer the Director of the Department of Insurance and Finance may rely exclusively on information provided to the director by federal regulatory agencies and by the association on forms prescribed by the director; as a condition of being analyzed and reviewed by the director, a federal association shall agree and consent to provide the director with accurate, pertinent and timely information.

(2) Failure of the Director of the Department of Insurance and Finance to inform the State Treasurer of the condition of any depository does not give any public depository any right or impose any liability on the director. The State Treasurer shall not be liable to any public depository 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 and the pool manager 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 Director of the Department of Insurance and Finance of the failure and shall send notice to the pool manager and 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; 1981 c.440 §1; 1985 c.762 §182; 1987 c.373 §§28a, 28b; 1987 c.554 §1; 1989 c.171 §41]

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 the public official acts. Except to the extent of such cash working fund, each public official shall deposit public funds in the custody or control of the public official in one or more depositories currently qualified pursuant to ORS 295.005, 295.015 and 295.025 to 295.165. The public official 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. 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 the custody or control of the public official.

(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 the public official 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 designated 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 depository 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 ORS 295.005 (7)(c) and (d). [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, the State Treasurer 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 ORS 295.065 (5) 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. Provided, however, that the committee shall value securities of the type described in ORS 295.005 (7)(g) as provided under ORS 295.185.

(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; 1983 c.456 §7]

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 Director of the Department of Insurance and Finance 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 the State Treasurer 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 the public official's 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 the public official's 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 that is insured by the Federal Deposit Insurance Corporation; or

(b) The amount of the public official's certificates of participation plus interest on the public official's deposits to the date the funds are distributed to the public official at the rate the depository agreed to pay on the funds.

(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 183.550, shall adopt rules to carry out this section. [1967 c.451 §10, 1973 c.438 §1, 1975 c.515 §5; 1983 c.296 §10; 1985 c.762 §183]

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

295.115 Time deposits. (1) 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.

(2) 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.

(3) The State Treasurer shall establish time deposits so as to make the deposited moneys as productive as possible, and shall exercise the judgment and care which persons of prudence, discretion and intelligence exercise in the management of their own affairs, considering the probable income and the probable safety of the moneys deposited, including the distribution of the deposits among depositories so as to minimize the possibility of loss of moneys. [1967 c.451 §11, 1989 c.319 §1]

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) 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) The State Treasurer may deposit moneys of any of the funds mentioned in ORS 293.701 (2), 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 in a depository, the sum the treasurer considers necessary as a reserve for the purpose of paying the current obligations and appropriations of the state. [1967 c.451 §12b; 1981 c.189 §1; 1989 c.319 §2]

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

295.135 Designation of depository; collection for claims due state. (1) The State Treasurer may designate such banks as are necessary within this state as depositories

for the collection of drafts, checks, certificates of deposit and coupons received by the State Treasurer 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 a depository for collection. The 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 depository shall be fixed by the State Treasurer upon the best terms obtainable for the state. [1967 c.451 §13; 1981 c.189 §2]

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 subdivisions; 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 the hands of the public official 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 the hands of the public official in connection with official duties with the treasurer of the political subdivision or public corporation concerned and obtain a receipt therefor. [1967 c.451 §16]

295.170 [Repealed by 1967 c.451 §32]

295.175 Expenses of State Treasurer as pool manager. The expense of the State Treasurer in acting as a pool manager shall be paid to the State Treasurer by the depository bank using the services as pool manager. The State Treasurer, under rules and regulations to be adopted by the State Treasurer pursuant to ORS 183.310 to 183.550, shall deposit funds so received and may require advance deposits to be made by any depository bank. The moneys credited 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; 1989 c.569. §5]

295.180 [Repealed by 1967 c.451 §32]

295.185 Maintenance of certain securities as collateral at rate set by State Treasurer. Notwithstanding the provisions of ORS 295.015 to 295.165, securities described in ORS 295.005 (7)(g) shall be maintained as collateral for public deposits at the value determined by the State Treasurer. [1983 c.456 §6]

295.190 [Repealed by 1967 c.451 §32]

295.195 When deposit in foreign country authorized; effect on collateral. (1) Notwithstanding any other provision of ORS chapter 295, the Department of Higher Education, with the approval of the State Treasurer, may deposit funds in a financial institution in a foreign country, if the circumstances under which the funds are to be used render it impracticable to keep the funds in a domestic financial institution or if the terms of a grant, gift or contract require that the funds be kept in a foreign country.

(2) Notwithstanding any other provision of this chapter, to the extent estimated to be necessary to fund operations or activities for one biennium of the State of Oregon in a foreign country, the State Treasurer may deposit funds in a financial institution in a foreign country.

(3) When funds are deposited in a financial institution in a foreign country pursuant to subsection (1) or (2) of this section, the institution shall not be required to maintain collateral as provided in ORS 295.015. Reasonable and prudent measures to protect the public funds from loss shall be exercised to the extent permitted under the laws of the foreign country.

(4) The State Treasurer shall report to the Legislative Assembly biennially on the amounts of deposits in foreign countries, and the operation and activities funded by such deposits. The report shall be submitted to the offices of the President of the Senate and the Speaker of the House of Representatives and shall be referred by each of them to appropriate standing committees other than committees concerned with budgets of the State Treasurer or the activity or operation so funded. [1983 c.374 §§1, 2; 1989 c.399 §1]

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]

CHAPTER 296

[Reserved for expansion]