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## HOUSE BILL NO. 1761

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Commerce and Labor  
on January 29, 2009)

(Patron Prior to Substitute—Delegate Kilgore)

*A BILL to amend and reenact §§ 2.2-4403, 2.2-4404, and 2.2-4405 of the Code of Virginia, relating to the Virginia Security for Public Deposits Act; assessment by the Treasury Board.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-4403, 2.2-4404, and 2.2-4405 of the Code of Virginia are amended and reenacted as follows:**

§ 2.2-4403. Procedure for payment of losses where depository is bank.

When the Treasury Board is advised by any treasurer or otherwise determines that a default or insolvency has occurred with regard to a qualified public depository that is a bank *not otherwise governed by § 2.2-4404*, it shall as promptly as practicable make payment to the proper treasurer of all funds subject to such default or insolvency, pursuant to the following procedures:

1. The Treasury Board and the treasurer shall ascertain the amount of public funds on deposit with the qualified public depository in default or insolvent that are secured pursuant to this chapter, either with the cooperation of the Commissioner of Financial Institutions or receiver appointed for such depository or by any other means available, and the amount of deposit insurance applicable to such deposits.

2. The amount of such public deposits ascertained as provided in subdivision 1, net of applicable deposit insurance, shall be assessed by the Treasury Board first against the depository in default or insolvent to the extent of the full realizable current market value of the collateral deposited by it to secure its public deposits, and second, to the extent that such collateral is insufficient to satisfy the liability of the depository upon its deposits secured pursuant to this chapter against each of the other qualified public depositories *not otherwise governed by § 2.2-4404* according to the ratio that the average daily balance for each month of the secured public deposits held by the depository during the twelve calendar months immediately preceding the date of the default or insolvency with respect to which the assessment is made bears to the total average daily balance for each month of all secured public deposits held by all qualified public depositories that are banks *not otherwise governed by § 2.2-4404*, other than the defaulting depository, during those twelve calendar months.

3. Assessments made by the Treasury Board shall be payable on the second business day following demand, and in case of the failure of any qualified public depository to pay such assessment when due, the State Treasurer shall promptly take possession of the eligible collateral deposited with him or with the Federal Reserve Bank of Richmond or other bank or trust company pursuant to this chapter and liquidate the same to the extent necessary to pay such assessment and turn over such amounts received to the Treasury Board.

4. Upon receipt of such assessment, payments or the proceeds of the eligible collateral liquidated to pay such assessments from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the depository's deposit liability to them, net of any applicable deposit insurance.

§ 2.2-4404. Procedure for payment of losses where depository is savings bank or savings and loan association.

When the Treasury Board is advised by any treasurer or otherwise determines that a default or insolvency has occurred with regard to a qualified public depository that is a savings bank or a savings and loan association *or bank not otherwise governed by § 2.2-4403*, it shall as promptly as practicable make payment to the proper treasurer of all funds subject to such default or insolvency, pursuant to the following procedures:

1. The Treasury Board and the treasurer shall ascertain the amount of public funds on deposit with the qualified public depository in default or insolvent that are secured pursuant to this chapter, either with the cooperation of the Commissioner of Financial Institutions or receiver appointed for such depository or by any other means available, and the amount of deposit insurance applicable to such deposits.

2. The amount of such public deposits ascertained as provided in subdivision 1 net of applicable deposit insurance, shall be assessed by the Treasury Board against the depository in default or insolvent. The State Treasurer shall promptly take possession of such of the eligible collateral deposited by such depository with him, or with any other depository pursuant to this chapter, as is necessary to satisfy the assessment of the Treasury Board and shall liquidate the same and turn over the proceeds thereof to the Treasury Board.

3. Upon receipt from the State Treasurer of the payments or proceeds of the eligible collateral

60 liquidated to pay such assessments from the State Treasurer, the Treasury Board shall reimburse the  
61 public depositors to the extent of the depository's deposit liability to them, net of any applicable deposit  
62 insurance.

63 § 2.2-4405. Powers of Treasury Board relating to the administration of this chapter.

64 The Treasury Board shall have power to:

65 1. Make and enforce regulations necessary and proper to the full and complete performance of its  
66 functions under this chapter;

67 2. Prescribe regulations fixing terms and conditions consistent with this chapter under which public  
68 deposits may be received and held;

69 3. Require such additional collateral, in excess of the required collateral of any qualified public  
70 depository, of any and all such depositories as it may determine prudent under the circumstances;

71 4. Determine what securities shall be acceptable as eligible collateral, and to fix the percentage of  
72 face value or market value of such securities that can be used to secure public deposits;

73 5. *Establish guidelines to permit banks to withdraw from the procedures for the payment of losses*  
74 *under § 2.2-4403 and instead be governed by the procedures for the payment of losses under § 2.2-4404.*  
75 *The guidelines shall be consistent with the primary purpose of protecting public deposits.*

76 6. Require any qualified public depository to furnish such information concerning its public deposits;  
77 and

78 ~~6~~7. Determine when a default or insolvency has occurred and to take such action as it may deem  
79 advisable for the protection, collection, compromise or settlement of any claim arising in case of default  
80 or insolvency.