

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 333

An Act to amend and reenact §§ 2.2-4400, 2.2-4502, and 2.2-4509 through 2.2-4512 of the Code of Virginia, relating to investment of public funds; rating agencies.

[H 1587]

Approved March 12, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4400, 2.2-4502, and 2.2-4509 through 2.2-4512 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-4400. Short title; declaration of intent; applicability.

A. This chapter may be cited as the "Virginia Security for Public Deposits Act."

B. The General Assembly intends by this chapter to establish a single body of law applicable to the pledge of collateral for public deposits in financial institutions so that the procedure for securing public deposits may be uniform throughout the Commonwealth.

C. All public deposits in qualified public depositories that are required to be secured by other provisions of law or by a public depositor shall be secured pursuant to this chapter. Public depositors are required to secure their deposits pursuant to several applicable provisions of law, including but not limited to §§ 2.2-1813, 2.2-1815, 8.01-582, 8.01-600, 15.2-1512.1, 15.2-1615, 15.2-2625, 15.2-6611, 15.2-6637, 58.1-3149, 58.1-3150, 58.1-3154, and 58.1-3158.

D. This chapter, however, shall not apply to deposits made by the State Treasurer in out-of-state financial institutions related to master custody and tri-party repurchase agreements, provided *that* (i) such deposits do not exceed ~~ten~~ 10 percent of average monthly investment balances and (ii) the out-of-state financial institutions used for this purpose have *a received at least one of the following short-term deposit rating of ratings: (a) not less than A-1 by Standard & Poor's Rating Service or; (b) not less than P-1 by Moody's Investors Service, Inc., respectively; or (c) not less than F1 by Fitch Ratings, Inc.*

§ 2.2-4502. Investment of funds of Commonwealth, political subdivisions, and public bodies in "prime quality" commercial paper.

A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control other than sinking funds in "prime quality" commercial paper, with a maturity of 270 days or less, of issuing corporations organized under the laws of the United States, or of any state thereof including paper issued by banks and bank holding companies. "Prime quality" ~~shall be as rated by at least two of the following: Moody's Investors Service, Inc., within its means that the paper has received at least two of the following ratings: (i) at least NCO/Moody's rating of prime 1; by Moody's Investors Service, Inc.; (ii) at least A1 by Standard & Poor's, Inc., within its rating of A-1; or (iii) at least F1 by Fitch Investor's Services, Ratings, Inc., within its rating of F-1, by Duff and Phelps, Inc., within its rating of D-1, or by their corporate successors, provided that at the time of any such investment:~~

1. The issuing corporation, or its guarantor, has a net worth of at least ~~fifty~~ \$50 million dollars; and
2. The net income of the issuing corporation, or its guarantor, has averaged ~~three~~ \$3 million dollars per year for the previous five years; and
3. All existing senior bonded indebtedness of the issuer, or its guarantor, is ~~rated "A" or better or the equivalent rating by~~ *has received at least two of the following ratings: (i) at least A by Moody's Investors Service, Inc.; (ii) at least A by Standard & Poor's, Inc.; or (iii) at least A by Fitch Investor's Services, Ratings, Inc.; or Duff and Phelps, Inc.*

Not more than ~~thirty-five~~ 35 percent of the total funds available for investment may be invested in commercial paper, and not more than five percent of the total funds available for investment may be invested in commercial paper of any one issuing corporation.

B. Notwithstanding subsection A, the Commonwealth, municipal corporations, *and* other political subdivisions and public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, except for sinking funds, in commercial paper other than "prime quality" commercial paper as defined in this section, provided that:

1. Prior written approval is obtained from the governing board, committee, or other entity that determines investment policy. The Treasury Board shall be the governing body for the Commonwealth; and
2. A written internal credit review justifying the creditworthiness of the issuing corporation is prepared in advance and made part of the purchase file.

§ 2.2-4509. Investment of funds in negotiable certificates of deposit and negotiable bank deposit notes.

Notwithstanding any provision of law to the contrary, the Commonwealth and all public officers, municipal corporations, and other political subdivisions and all other public bodies of the Commonwealth may invest any or all of the moneys belonging to them or within their control, other than sinking funds, in negotiable certificates of deposit and negotiable bank deposit notes of domestic banks and domestic offices of foreign banks ~~with a rating of:~~

1. With maturities not exceeding one year, that have received at least two of the following ratings: (i) at least A-1 by Standard & Poor's ~~and~~; (ii) at least P-1 by Moody's ~~Investor~~ Investors Service, Inc., for maturities of one year or less, and a rating of at least AA by Standard & Poor's and Aa by Moody's Investor Service, Inc., for maturities over one year and not exceeding five years; or (iii) at least F1 by Fitch Ratings, Inc.; and

2. With maturities exceeding one year and not exceeding five years, that have received at least two of the following ratings: (i) at least AA by Standard & Poor's; (ii) at least Aa by Moody's Investors Service, Inc.; or (iii) at least AA by Fitch Ratings, Inc.

§ 2.2-4510. Investment of funds in corporate notes.

A. Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds, in high quality corporate notes with a ~~rating~~ *maturities of no more than five years that have received at least two of the following ratings: (i) at least Aa by Moody's Investors Service, Inc., and a rating of;* (ii) at least AA by Standard and ~~Poors, Inc., and a maturity of no more than five years~~ *Poor's; or (iii) at least AA by Fitch Ratings, Inc.*

B. Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth may invest any and all moneys belonging to it or within its control, other than sinking funds, in high quality corporate notes ~~with a rating of that have received at least two of the following ratings: (i) at least A by two rating agencies, one of which shall be either Moody's Investors Service, Inc., or; (ii) at least A by Standard and Poors, Inc. Poor's; or (iii) at least A by Fitch Ratings, Inc.~~

As used in this section, "qualified public entity" means any state agency or institution of the Commonwealth, having an internal or external public funds manager with professional investment management capabilities.

C. Notwithstanding any provision of law to the contrary, the Department of the Treasury may invest any and all moneys belonging to it or within its control, other than sinking funds, in high quality corporate notes with a rating of *at least BBB or Baa2 by two rating agencies. One of the two qualifying ratings shall be (i) at least BBB or Baa2 by two rating agencies, one of which shall be Moody's Investors Service, Inc., or; (ii) at least BBB by Standard and Poors, Inc. Poor's; or (iii) at least BBB by Fitch Ratings, Inc.* With regard to investment securities rated below A, the Commonwealth Treasury Board shall establish strict investment guidelines concerning the investment in such securities and monitor the performance of the securities for compliance with the investment guidelines.

§ 2.2-4511. Investment of funds in asset-backed securities.

Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth may invest any and all moneys belonging to it or within its control, other than sinking funds, in asset-backed securities with a duration of no more than five years ~~and a rating of no less than AAA by two rating agencies, one of which must be either with a rating of at least AAA or Aaa by two rating agencies. One of the two qualifying ratings shall be (i) at least Aaa by Moody's Investors Service, Inc., or; (ii) at least AAA by Standard and Poors, Inc. Poor's; or (iii) at least AAA by Fitch Ratings, Inc.~~

As used in this section, "qualified public entity" means any state agency, institution of the Commonwealth or statewide authority created under the laws of the Commonwealth having an internal or external public funds manager with professional investment management capabilities.

§ 2.2-4512. Investment of funds by State Treasurer in obligations of foreign sovereign governments.

Notwithstanding any provision of law to the contrary, the State Treasurer may invest unexpended or excess moneys in any fund or account over which he has custody and control, other than sinking funds, in fully hedged debt obligations of sovereign governments and companies that are fully guaranteed by such sovereign governments with a ~~rating of at least AAA, maturity of no more than five years that have received at least two of the following ratings: (i) at least Aaa by Moody's Investors Service, Inc., and a rating of;~~ (ii) at least AAA by Standard and ~~Poors, Inc., and a maturity of no more than five years~~ *Poor's; or (iii) at least AAA by Fitch Ratings, Inc.*

Not more than ~~ten~~ 10 percent of the total funds of the Commonwealth available for investment may be invested in the manner described in this section.