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HOUSE BILL NO. 1613

Offered January 9, 2013

Prefiled January 6, 2013

A BILL to amend and reenact §§ 2.2-1815, 2.2-4400, and 2.2-4401 of the Code of Virginia, relating to state depositories; exempt deposits.

Patron—Hugo

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1815, 2.2-4400, and 2.2-4401 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1815. Security to be given by depositories holding state funds.

A. No state funds shall be deposited in any depository unless it is a "qualified public depository" as defined in § 2.2-4401. For purposes of this article, "state funds" means public funds or moneys from any source, belonging to or for the use of the Commonwealth, or for the use of any state department, division, officer, board, commission, institution, or other agency or authority owned or controlled by the Commonwealth. All state funds shall be secured pursuant to the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

B. *The provisions of this section and § 2.2-1813 shall not apply to deposits described in subsection D of § 2.2-4400.*

§ 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:

1. *Deposits made by the State Treasurer in out-of-state financial institutions related to master custody and tri-party repurchase agreements, provided (i) such deposits do not exceed ten percent of average monthly investment balances and (ii) the out-of-state financial institutions used for this purpose have a short-term deposit rating of not less than A-1 by Standard & Poor's Rating Service or P-1 by Moody's Investors Service, Inc., respectively; or*

2. *Deposits made by, on behalf of, or at the direction of any public depositor in out-of-state financial institutions related to escrow or trust agreements or custody agreements, other than master custody agreements.*

§ 2.2-4401. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Dedicated method" or "opt-out method" means the securing of public deposits without accepting the contingent liability for the losses of public deposits of other qualified public depositories, pursuant to § 2.2-4404 and regulations and guidelines promulgated by the Treasury Board.

"Defaulting depository" means any qualified public depository determined to be in default or insolvent.

"Default or insolvency" includes, but shall not be limited to, the failure or refusal of any qualified public depository to return any public deposit upon demand or at maturity and the issuance of an order of supervisory authority restraining such depository from making payments of deposit liabilities or the appointment of a receiver for such depository.

"Eligible collateral" means securities or instruments authorized as legal investments under the laws of the Commonwealth for public sinking funds or other public funds as well as Federal Home Loan Bank letters of credit issued in accordance with guidelines promulgated by the Treasury Board.

"Located in Virginia" means having a main office or branch office in the Commonwealth where deposits are accepted, checks are paid, and money is lent.

"Pooled method" means securing public deposits by accepting the contingent liability for the losses of public deposits of other qualified public depositories choosing this method, pursuant to § 2.2-4403

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59 and regulations and guidelines promulgated by the Treasury Board.

60 "Public deposit" means moneys held by a public depositor who is charged with the duty to receive or
61 administer such moneys and is acting in an official capacity, such moneys being deposited in any of the
62 following types of accounts: nonnegotiable time deposits, demand deposits, savings deposits, or any
63 other transaction accounts. *"Public deposit" does not include any deposits made by, on behalf of, or at*
64 *the direction of any public depositor in out-of-state financial institutions related to escrow or trust*
65 *agreements or custody agreements other than master custody agreements.*

66 "Public depositor" means the Commonwealth or any county, city, town or other political subdivision
67 thereof, including any commission, institution, committee, board, or officer of the foregoing and any
68 state court.

69 "Qualified escrow agent" means the State Treasurer or any bank or trust company approved by the
70 Treasury Board to hold collateral pledged to secure public deposits.

71 "Qualified public depository" means any national banking association, federal savings and loan
72 association or federal savings bank located in Virginia, any bank, trust company or savings institution
73 organized under Virginia law, or any state bank or savings institution organized under the laws of
74 another state located in Virginia authorized by the Treasury Board to hold public deposits according to
75 this chapter.

76 "Required collateral" of a qualified public depository means the amount of eligible collateral required
77 to secure public deposits set by regulations or an action of the Treasury Board.

78 "Treasury Board" means the Treasury Board of the Commonwealth created by § 2.2-2415.