

CHAPTER 69C-2
PROCEDURES FOR ADMINISTERING THE FLORIDA SECURITY FOR PUBLIC DEPOSITS ACT

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69C-2.001 Purpose.

The purpose of these rules is to establish procedures for securing, by the pledge of eligible collateral, state and local government deposits maintained in banks and savings associations throughout the State of Florida.

Specific Authority 280.19 FS. Law Implemented 280 FS. History—New 2-25-82, Amended 11-29-84, Formerly 4C-2.01, Amended 6-28-88, Repromulgated 1-23-91, Formerly 4C-2.001.

69C-2.002 Scope.

These rules establish procedures for the administration of the “Florida Security for Public Deposits Act,” which is encompassed in Chapter 280, F.S. These rules also establish guidelines for qualification and participation by banks and savings associations doing business in the state; procedures for the administration of the collateral requirements of the Act; eligible collateral criteria and restrictions; forms to be used in administration of the Act; effect of filing information, reports and/or forms electronically; additional reports and inspections necessary for administration of the Act; interim reports to be published by the Chief Financial Officer; assessment calculation; requirements of public depositors; task force membership criteria; criteria and guidelines to be used by the Chief Financial Officer in administering and protecting the integrity of the Public Deposits Program; administration of payment of losses and related expenses; and effective date of withdrawal due to an acquisition or merger.

Specific Authority 280.19 FS. Law Implemented 280 FS. History—New 2-25-82, Amended 11-29-84, Formerly 4C-2.02, Amended 4-10-86, 6-28-88, 1-23-91, 7-12-92, Formerly 4C-2.002.

69C-2.004 Definitions.

For the purpose of these rules, the following terms are defined:

(1) “Authorized Agent for Reports” means a corporation other than the Qualified Public Depository that is authorized to file the Public Depository Monthly Report, Form DI4-1003, adopted in paragraph 69C-2.009(1)(d), F.A.C., and the Qualified Public Depository Annual Report to the Chief Financial Officer, Form DI4-1004, (rev. 6/98) adopted in paragraph 69C-2.009(1)(e), F.A.C.,

with the Chief Financial Officer.

(2) “Authorized Agent for Transactions” means a corporation other than the Qualified Public Depository or the Operating Subsidiary, if one is used, that is authorized to execute collateral transactions.

(3) “Authorized Signature Certification” means a written certification, on Form DI4-1010, “Authorized Signature Certification”, adopted in paragraph 69C-2.009(1)(k), F.A.C., wherein a Qualified Public Depository provides the Chief Financial Officer with the name and signature of any person who is authorized and duly empowered on behalf of the depository to issue instructions and enter into agreements with the Chief Financial Officer concerning cash and security transactions.

(4) “Capital Account” is as defined in Chapter 280, F.S.

(5) “Certificate of Qualified Public Depository” means a certification, Form DI4-1002, “Certificate of Qualified Public Depository”, adopted in paragraph 69C-2.009(1)(c), F.A.C., from the Chief Financial Officer to each bank or savings association which has met all of the necessary requirements under the law and these rules to hold public deposits.

(6)(a) “Contingent Liability Agreement” means a written certified agreement on Form DI4-1000, “Contingent Liability Agreement”, adopted in Rule 69C-2.009, F.A.C., wherein a Qualified Public Depository, and an Operating Subsidiary if one is used, shall guarantee public depositors against loss caused by the default or insolvency of other Qualified Public Depositories.

(b) The bank or savings association accepting and holding public deposits pursuant to Chapter 280, F.S., has the responsibility for determining what accounts are public deposits, and for properly reporting and collateralizing such accounts in compliance with the “Florida Security for Public Deposits Act”.

(c) The signed agreement shall remain in effect until replaced with an updated agreement, or until the depository’s contingent liability in the Public Deposits Program expires.

(7) “Day” shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banks in the State of Florida are authorized or obligated by law or executive order to close. In computing any period of time prescribed or allowed by these rules, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(8) “Deposit Insurance” means the insurance coverage afforded to public deposit accounts pursuant to the provisions of the Federal Deposit Insurance Act.

(9) “Deposit of Collateral” means an electronically transmitted transaction advice citing minimum necessary information in a format as prescribed by the Chief Financial Officer, or a model form letter, Form DI4-1005, “Deposit of Collateral”, adopted in paragraph 69C-2.009(1)(f), F.A.C., citing minimum necessary information. This model form letter or transmission format is to be utilized by each Qualified Public Depository to advise its custodian agent and the Chief Financial Officer of the description and amounts of pledged collateral.

(10) “Instruction for Payment of Income” means Form DI4-1011, “instruction for Payment of Income”, adopted in paragraph 69C-2.009(1)(l), F.A.C., wherein a Qualified Public Depository advises the Chief Financial Officer in writing where to remit the receipts and the income earned on its securities held in the Chief Financial Officer name for those purposes stated in Chapter 280, F.S.

(11) “Offset” means the right which exists between two parties each of whom, under an independent contract, owes an ascertained amount to the other to set off their respective debts by way of mutual deduction.

(12) “Operating Subsidiary” means a corporation which is 100 percent owned by a Qualified Public Depository, and which has no powers beyond those which its parent Qualified Public Depository may itself exercise.

(13) “Power of Attorney” means the certified and notarized Forms DI4-1008, “Power of Attorney”, adopted in paragraph 69C-2.009(1)(i), F.A.C., wherein a Qualified Public Depository or Custodian, in compliance with the Act, delivers to the Chief Financial Officer for each issue of registered certificated securities deposited and pledged as collateral. These forms will be requested by the Chief Financial Officer when concerns about the qualified public depository’s financial condition or reporting status or the security of collateral is in question.

(14) “Public Deposit Claim Form and Agreement” means a written Form DI4-1012 “Public Deposit Claim Form and Agreement”, adopted in Rule 69C-2.009, F.A.C., wherein a public depositor describes under oath the details of an uncompensated loss of a public deposit due to the default or insolvency of a qualified public depository and agrees to the terms under which the

public depositor agrees to abide in order to receive payment from the Chief Financial Officer.

(15) “Public Deposit Identification and Acknowledgment Form” means the form prescribed by the Chief Financial Officer, Form DI4-1295, “Public Deposit Identification and Acknowledgment Form”, adopted in Rule 69C-2.009, F.A.C., wherein a public depositor identifies each Florida public deposit account and obtains acknowledgment of this identification from the Qualified Public Depository.

(16) “Public Depositor Annual Report to the Chief Financial Officer” means an electronically transmitted report in a format approved by the Chief Financial Officer, or a written report on Form DI4-1009, “Public Depositor Annual Report to the Chief Financial Officer”, adopted in paragraph 69C-2.009(1)(j), F.A.C., submitted annually to the Chief Financial Officer by each public depositor as required by Section 280.17, F.S.

(17) “Public Depository Monthly Report” means an electronically transmitted report in a format prescribed by the Chief Financial Officer, or a certified report on Form DI4-1003, “Public Depository Monthly Report, Worksheet, and Instructions for Completing”, adopted in paragraph 69C-2.009(1)(d), F.A.C. Each Qualified Public Depository shall submit to the Chief Financial Officer a monthly report by the 15th day of each calendar month. The report shall include information relative to public deposits held by the depository during the reported calendar month, the status of its equity capital, intangible assets, other financial information as required, the amount of its required collateral, and change of name/address/type of institution.

(18) “Public Depository Pledge Agreement” means a written certified agreement, on Form DI4-1001 “Public Depository Pledge Agreement”, adopted in paragraph 69C-2.009(1)(b), F.A.C., executed on behalf of the Chief Financial Officer, wherein a bank or savings association, in compliance with the Act and as a condition precedent to becoming or continuing to be a Qualified Public Depository, and an Operating Subsidiary, if one is used, agree to transfer and deliver securities which are eligible collateral to a custodian, or an agent of the custodian if elected, which agrees to safekeep such securities for the primary benefit of the Chief Financial Officer. The securities shall be pledged to the Chief Financial Officer and shall not be withdrawn without the Chief Financial Officer consent under the terms and conditions of the agreement, and for the purposes set forth by the Act and these rules.

(19) “Public Deposits” are those funds defined in Chapter 280, F.S., and all other funds that are required by law to conform to and be bound by all of the provisions of Chapter 280, F.S.

(20) “Qualified Public Depository” is as defined in Chapter 280, F.S. “Qualified Bank Depositories” shall include Industrial Savings Banks and “Qualified Savings Associations” shall include Savings Banks.

(21) “Qualified Public Depository Annual Report to the Chief Financial Officer” means an electronically transmitted report in a format prescribed by the Chief Financial Officer, or a certified report on Form DI4-1004, “Qualified Public Depository Annual Report to the Chief Financial Officer”, adopted in paragraph 69C-2.009(1)(e), F.A.C., submitted annually to the Chief Financial Officer by each Qualified Public Depository, indicating all public deposits held for the credit of all public depositors as required by Section 280.16, F.S. The report must be completed by a person authorized as required in Rule 69C-2.032, F.A.C., and who shall not be involved in the preparation or execution of the September monthly report referred to in subsection (17), above.

(22) “Submit” means the date electronically transmitted or the postmark date.

(23) “Substitution of Collateral” means an electronically transmitted request in a format prescribed by the Chief Financial Officer, or a model form letter, Form DI4-1006, “Substitution of Collateral” adopted in paragraph 69C-2.009(1)(g), F.A.C. This model form letter or transmission format is to be utilized by each Qualified Public Depository to advise its custodian agent and the Chief Financial Officer of the description and amounts of pledged collateral to be released, and the description and amounts of the collateral to be substituted.

(24) “Chief Financial Officer” means the State Chief Financial Officer of the State of Florida.

(25) “Withdrawal of Collateral” means an electronically transmitted request in a format prescribed by the Chief Financial Officer or a model form letter, Form DI4-1007, “Withdrawal of Collateral”, adopted in paragraph 69C-2.009(1)(h), F.A.C. The model form letter, or other approved transmission format, is, to be utilized by each Qualified Public Depository to request the Chief Financial Officer to release pledged collateral, and to advise the custodian agent of the Chief Financial Officer approval or disapproval of the request.

Specific Authority 280.19 FS. Law Implemented 175.301, 185.30, 280.02, 280.04, 280.05(16), 280.016(1)(b), 631.221 FS. History—New 2-25-82, Amended 5-17-84, 11-29-84, Formerly 4C-2.04, Amended 4-10-86, 6-28-88, 1-23-91, 7-12-92, 5-27-97, 4-5-99, Formerly 4C-2.004.

69C-2.005 Qualifications for Participation by Banks and Savings Associations.

To become a Qualified Public Depository under the "Florida Security for Public Deposits Act", a bank or savings association must meet or comply with each of the following requirements:

- (1)(a) Be organized and operating under the laws of this state; or
 - (b) Be organized under the laws of the United States and having its principal place of business in this state; or
 - (c) Having a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state.
- (2) Meet the financial ranking established for entry in the Public Deposits Program pursuant to Rule 69C-2.024, F.A.C.
 - (3) Execute Form DI4-1000, "Contingent Liability Agreement".
 - (4) Execute Form DI4-1001, "Public Depository Pledge Agreement" and pledge the required collateral, if applicable.
 - (5) Submit a copy of the prior year end and all current year quarterly financial statements; however, if no reports have been filed for the current calendar year, all quarterly reports for the prior calendar year must be submitted.
 - (a) To satisfy the above requirement, Banks shall submit a copy of its "Consolidated Report of Condition and Income" (more commonly called the "Call Report").
 - (b) To satisfy the above requirement, Savings Associations shall submit copies of its "Thrift Financial Reports."
 - (6) Have received Form DI4-1002, "Certificate of Qualified Public Depository" executed by the Chief Financial Officer.

Specific Authority 280.19 FS. Law Implemented 280.02(11), 280.04(1), 280.07, 280.16 FS. History—New 2-25-82, Amended 11-29-84, Formerly 4C-2.05, Amended 4-10-86, 6-28-88, 1-23-91, 7-12-92, Formerly 4C-2.005.

69C-2.006 Administration of Collateral Requirements.

(1) The Chief Financial Officer shall review and determine the collateral requirements and collateral pledging level(s) for each Qualified Public Depository based on criteria established for entry, withdrawal, and continued participation in the Public Deposits Program in accordance with Sections 280.04 and 280.05(6), F.S., and Rule 69C-2.024, F.A.C.

(2) Each Qualified Public Depository shall deposit with or pledge to the Chief Financial Officer eligible collateral equal to or in excess of its required collateral. The amount of its required collateral shall be determined:

(a) Daily. Public deposits that increase the average daily balance for the current month by twenty-five percent (25%) or more over the average daily balance for the previous month shall be collateralized by the pledge of additional eligible securities within forty-eight (48) hours, or two (2) days, of the deposit.

(b) Monthly. The amount of required collateral for the month shall be determined based on the calculations in Schedule C of Form DI4-1003, "Public Depository Monthly Report". Form DI4-1003 is to be submitted to the Chief Financial Officer by the 15th day of each calendar month. The depository is simultaneously responsible for pledging any additional securities necessary to meet or exceed the amount of its required collateral.

(c) Special. The Chief Financial Officer shall notify each Qualified Public Depository of any special requirements he may impose pursuant to Sections 280.04, 280.05, 280.11, 280.16, F.S., and Rule 69C-2.024, F.A.C. When notified of any special requirements, the Qualified Public Depository shall act in accordance with the Chief Financial Officer instructions.

(3) The deposit or pledge of securities is achieved by:

(a) Executing Form DI4-1001, "Public Depository Pledge Agreement". with an approved custodian agent and submitting it to the Chief Financial Officer before pledging securities to the Chief Financial Officer.

(b) Depositing with or pledging to the Chief Financial Officer eligible securities.

(c) Electronically transmitting the required deposit of collateral information to the Chief Financial Officer, or completing Form DI4-1005, "Deposit of Collateral", and sending a copy of the completed transaction to the Chief Financial Officer.

(4)(a) Unless the Chief Financial Officer has officially notified the Qualified Public Depository that a substitution of collateral may not be made prior to approval, a substitution of collateral may be made by the Qualified Public Depository by electronically transmitting the required information to the Chief Financial Officer or completing Form DI4-1006, "Substitution of Collateral" completing the transaction, and sending a copy of Form DI4-1006 to the Chief Financial Officer.

(b) The substituted collateral must meet the eligibility requirements to be pledged, and its market value must be equal to or greater than the market value of the securities withdrawn.

(5) Withdrawal of previously pledged collateral requires the prior approval of the Chief Financial Officer.

(a) To withdraw collateral, a Qualified Public Depository must request approval of the Chief Financial Officer via electronic means, or on Form DI4-1007, "Withdrawal of Collateral". The depository may request withdrawal of collateral by means of a telegram or facsimile message, provided the message clearly contains all information required.

(b) The Chief Financial Officer shall approve or disapprove the request within five (5) working days of receipt of the request and shall, if the request is approved, notify the custodian agent of the securities to be released.

(c) The depository may request that the Chief Financial Officer notify the custodian agent of his approval for withdrawal of collateral by means of a facsimile message.

(6) If the Chief Financial Officer requires a Qualified Public Depository to move its pledged securities into an account established in the Chief Financial Officer name, the president of the depository must execute and return to the Chief Financial Officer Form DI4-1011, "Authorized Signature Certification" and Form DI4-1010, "Instruction for Payment of Income".

(7) No costs, fees or expenses incidental to the functioning of the pledge agreement shall be a charge against the Chief Financial Officer or his interests in the securities pledged.

Specific Authority 280.19 FS. Law Implemented 280.02, 280.04, 280.05(16), 280.0016(1)(b), 280.16 FS. History—New 2-25-82, Amended 11-29-84, Formerly 4C-2.06, Amended 4-10-86, 6-28-88, 1-23-91, 7-12-92, Formerly 4C-2.006.

69C-2.007 Eligible Collateral Criteria and Restrictions.

(1) Collateralized Mortgage Obligations (CMOs) and Real Estate Mortgage Investment Conduits (REMICs):

(a) Must be a direct obligation of a U.S. Agency.

(b) Must be in book entry form.

(c) Shall not include private label issues.

(d) Shall not include the following classes:

1. Interest Only,

2. Principal Only,

3. Residual, or

4. Zero.

(e) Prior to pledging or substituting these instruments, a tranche or deal summary describing the instrument must be submitted to the Chief Financial for his review and approval.

(2) Certificates of Deposit:

(a) The depository institution issuing the certificate of deposit must be rated AA or higher by either Moody's or Standard and Poor's rating service.

(b) Must be in U.S. Dollars.

(c) Must be negotiable.

(d) Must have a maturity of ninety (90) days or longer at the time of pledging.

(e) Prior to the pledge or substitution of a certificate of deposit, a copy of the certificate or other information about the depository issuing the certificate must be submitted to the Chief Financial Officer for his review and approval.

(3) Securities of, or other interests in, any open-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time. The Qualified Public Depository, prior to pledging or substituting these instruments, must submit a copy of the prospectus to the Chief Financial Officer for his review and approval.

(4) To the extent necessary to protect the integrity of the program, the Chief Financial Officer may at his discretion limit the pledging of the instruments set out in subsections (1), (2), and (3) to a percentage of the total collateral pledged by the Qualified Public Depository.

(5) The Chief Financial Officer may, at any time when in his judgment it is desirable to do so, refuse to accept certain securities or refuse to accept the reported market value of certain securities offered pursuant to Section 280.04, F.S., in order to ensure that sufficient collateral is on hand to meet the purposes of Chapter 280, F.S. Guidelines the Chief Financial Officer may use to refuse securities or reported market value include, but are not limited to, whether the market value of the securities can be readily ascertained and whether the securities are illiquid.

(6) The following instruments or securities are excluded by action of the Chief Financial Officer and shall not be acceptable as

collateral:

- (a) Loans of any type.
- (b) Repurchase and Reverse Repurchase Agreements (REPO).
- (c) Any securities not approved by the Chief Financial Officer.

Specific Authority 280.13(2), (5), 280.19 FS. Law Implemented 280.04(1), 280.05, 280.13 FS. History—New 2-25-82, Amended 11-29-84, Formerly 4C-2.07, Amended 4-10-86, 6-28-88, 1-23-91, 7-12-92, Formerly 4C-2.007.

69C-2.009 Forms.

(1) The forms listed below are incorporated into and made a part of these rules by reference and shall take effect on the date listed for each form.

- (a) DI4-1000 (rev. 3/97) Contingent Liability Agreement and Affidavit
- (b) DI4-1001 (rev. 3/97) Public Depository Pledge Agreement
- (c) DI4-1002 (3/92) Certificate of Qualified Public Depository
- (d) DI4-1003 (3/92) Public Depository Monthly Report, Worksheet, and Instructions for Completing
- (e) DI4-1004 (rev. 6/98) Qualified Public Depository Annual Report to the Chief Financial Officer
- (f) DI4-1005 (3/92) Deposit of Collateral (Model form letter)
- (g) DI4-1006 (3/92) Substitution of Collateral (Model form letter)
- (h) DI4-1007 (3/92) Withdrawal of Collateral (Model form letter)
- (i) DI4-1008 (3/92) Power of Attorney
- (j) DI4-1009 (rev. 6/98) Public Depositor Annual Report to the Chief Financial Officer
- (k) DI4-1010 (3/92) Authorized Signature Certification
- (l) DI4-1011 (3/92) Instruction for Payment of Income
- (m) DI4-1012 (6/98) Public Deposit Claim Form and Agreement
- (n) DI4-1295 (6/98) Public Deposit Identification and Acknowledgment Form

(2) Copies of all forms listed in subsection (1) above may be obtained through the Public Deposits Section, Bureau of Collateral Securities, Division of Treasury, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0345.

Specific Authority 280.19 FS. Law Implemented 280.04(4), 280.05, 280.16, 280.17 FS. History—New 2-25-82, Amended 5-17-84, 11-29-84, Formerly 4C-2.09, Amended 4-10-86, 6-28-88, 1-23-91, 7-12-92, 2-1-93, 5-27-97, 4-5-99, Formerly 4C-2.009.

69C-2.0095 Electronic Data Transmission of Information, Reports, and Forms.

Electronic filing of information, reports, or forms, including any items required to be certified or made under oath, shall have the same enforceability as a signed writing.

Specific Authority 280.19 FS. Law Implemented 280.05(19), 280.16 FS. History—New 1-23-91, Formerly 4C-2.025, Amended 7-12-92, 4-5-99, Formerly 4C-2.0095.

69C-2.010 Additional Reports and Inspections.

(1) When a Qualified Public Depository experiences a decrease in its capital accounts as reported on its most recent monthly report, it shall provide to the Chief Financial Officer a detailed statement documenting the decreases and the reasons for the decreases, unless the decrease is a result of paying dividends.

(2) The Chief Financial Officer will continually monitor changes in the capital accounts and the overall financial condition of all

Qualified Public Depositories. If a Qualified Public Depository is experiencing a decline in capital accounts, or if its overall financial condition is deteriorating, the Chief Financial Officer may request additional information which may include, but shall not be limited to:

- (a) A copy of any report required to be filed with any state or federal regulator;
- (b) A full report of all public deposits by depositor name and location, account name, account number, amount, and Federal Employer Identification Number (FEIN); and/or
- (c) Other related information.

(3) The Chief Financial Officer will review the "Public Depository Monthly Reports" and continually monitor the collateral pledging level(s) and required collateral of each Qualified Public Depository. If the Chief Financial Officer determines that a Qualified Public Depository has violated the law and rule and has not pledged adequate collateral and/or has not used the proper collateral pledging level or levels, he shall notify the affected Qualified Public Depository of its proper collateral requirements and/or collateral pledging level(s). The Qualified Public Depository shall immediately comply with the Chief Financial Officer instructions. The Qualified Public Depository shall also be subject to the provisions of Sections 280.051, 280.052, 280.053, 280.054, 280.055 and 280.06, F.S.

(4) Each Qualified Public Depository shall during office hours permit the Chief Financial Officer to inspect, verify, and review all documents, reports, records and all other financial information deemed necessary by the Chief Financial Officer to verify compliance with Chapter 280, F.S. Failure to comply with this section may result in disqualification pursuant to Section 280.051, F.S.

Specific Authority 280.19 FS. Law Implemented 280.02, 280.04, 280.05, 280.16 FS. History—New 2-25-82, Amended 11-29-84, Formerly 4C-2.10, Amended 4-10-86, 6-28-88, 1-23-91, 7-12-92, Formerly 4C-2.010.

69C-2.011 Interim Reports by the Chief Financial Officer.

(1) The Chief Financial Officer will make information available to the general public on the Florida Security for Public Deposits Program. Such information will be included in the Chief Financial Officer Annual Report and will include the amount of reported public funds on deposit and other related information.

(2) The Chief Financial Officer will report quarterly a list of Qualified Public Depositories in the State of Florida. This quarterly report will be published in the Florida Administrative Weekly the fourth week of the first, fourth, seventh, and tenth months of each year, and this publication shall constitute notice under this rule.

(3) The Chief Financial Officer will report annually to all Qualified Public Depositories the annual average amount of public deposits held by Qualified Public Depositories of the same type. This report will be disseminated not later than February 15th of each year for the previous calendar year.

(4) Public Depositors that have complied with Section 280.17, F.S., and Rule 69C-2.022, F.A.C., and have funds in defaulted and/or insolvent depositories, or depositories withdrawing, suspended, or disqualified from the Florida Security for Public Deposits Program will be notified by the Chief Financial Officer as required by Section 280.085, F.S.

(5) The Chief Financial Officer will report to each Qualified Public Depository its financial condition ranking as published quarterly in nationally recognized financial rating services.

Specific Authority 280.19 FS. Law Implemented 280.01-.05, 280.07, 280.08, 280.09, 280.10, 280.11, 280.13, 280.16, 280.18, 280.19 FS. History—New 2-25-82, Amended 11-29-84, Formerly 4C-2.11, Amended 4-10-86, 6-28-88, Repromulgated 1-23-91, Amended 7-12-92, Formerly 4C-2.011.

69C-2.021 Assessment Calculation.

When the Chief Financial Officer has determined that a default or insolvency has occurred, any loss to public depositors shall be governed by Section 280.08, F.S. Any assessment levied against other Qualified Public Depositories will be based on public deposits held before deducting deposit insurance. The assessment ratio calculation established by Section 280.08(3), F.S., shall be computed to six decimal places.

Specific Authority 280.19 FS. Law Implemented 280.08(3) FS. History—New 6-28-88, Amended 1-23-91, 7-12-92, Formerly 4C-2.021.

69C-2.022 Requirements of Public Depositors.

(1) Each public depositor having moneys on deposit in a Qualified Public Depository that is in default or is insolvent shall notify the Chief Financial Officer of that fact immediately after receiving notice of the default or insolvency from the receiver of the depository. In order to facilitate compliance with this requirement, public depositors may provide notification first by telecommunications, provided such notification is subsequently confirmed in writing with a copy of the notice from the receiver.

(2) In the event of the insolvency or default of a Qualified Public Depository, each public depositor having a claim against the Public Deposits Security Trust Fund shall file a claim with the Chief Financial Officer on Form DI4-1012, (rev. 6/98), "Public Deposits Claim Form and Agreement," within thirty (30) days after the date of the official notification from the Chief Financial Officer.

(3) Each public depositor shall notify the Chief Financial Officer of its official name and address annually, as required by Section 280.17, F.S., on Form DI4-1009, (rev. 6/98), "Public Depositor Annual Report to the Chief Financial Officer", or by electronic means.

Specific Authority 280.19 FS. Law Implemented 280.17 FS. History—New 6-28-88, Amended 1-23-91, 7-12-92, 4-5-99, Formerly 4C-2.022.

69C-2.024 Criteria and Guidelines to be Used by the Chief Financial Officer in Administering and Protecting the Integrity of the Public Deposits Program.

(1) Entry, withdrawal, and continued participation in the program will be based on the overall financial condition of each Qualified Public Depository and each applicant.

(2) The financial condition of each Qualified Public Depository and each applicant will be determined by an analysis of:

(a) Ratios derived from the institution's quarterly regulatory reports.

(b) The trends experienced by each institution.

(c) An average financial condition ranking from two nationally recognized financial rating services, published quarterly.

(d) Other pertinent information relating to the overall financial condition of the institution.

(3) Based on guidelines recommended by both the Banks and Savings Associations Advisory Committees, the following numerical parameters for entry, withdrawal, collateral pledging levels, and requirements will apply for all participants and applicants. Using a scale of 0 to 100, institutions with a quarterly average financial condition ranking of:

(a) 20 or more may join the Public Deposits Program.

(b) 0-15 must withdraw from the program. However, an institution may choose to meet the following conditions as an alternative to withdrawing:

1. Establish a maximum amount of public deposits the institution may hold, which is mutually agreed upon by and between the Chief Financial Officer and the institution.

2. Deposit into an account in the Chief Financial Officer name eligible collateral equal to two hundred percent (200%) of the amount of public deposits agreed to pursuant to subparagraph 1. above.

3. Submit each month, or whenever requested by the Chief Financial Officer, a certified report listing all public deposits held for the credit of all public depositors.

(c) 0-20 must deposit collateral into a custodial account established in the Chief Financial Officer name. The Qualified Public Depository shall not be allowed to utilize the services of any affiliated institution for these purposes.

(d) 0-29 must pledge collateral at a one hundred twenty-five percent (125%) level, unless paragraph (3)(b) of this rule applies.

(e) 30-69 may pledge collateral at a fifty percent (50%) level.

(f) 70 and above may pledge collateral at a twenty-five percent (25%) level, calculated on an average of the most recent fourquarters rankings.

(g) Institutions less than three years old must pledge collateral at a one hundred twenty-five percent (125%) level as required in Section 280.04, F.S., unless paragraph (3)(b) of this rule applies.

(4) On a quarterly basis, the Chief Financial Officer will review the average ranking of each Qualified Public Depository, any changes to its collateral pledging level and requirements, and any other action required or relevant to the institution's continued participation in the Public Deposits Program, and notify each depository of his findings.

(5) The Advisory Committees will review, monitor, and make recommendations for modifications to these guidelines or

numerical parameters as necessary to meet the changing needs of the program and participants. The Chief Financial Officer will notify each Qualified Public Depository of all changes in these guidelines or the numerical parameters as they occur.

(6) The Chief Financial Officer may at any time require a one hundred twenty-five percent (125%) collateral pledging level for any Qualified Public Depository which exhibits one or more of the following conditions:

- (a) Decreases in its capital accounts;
- (b) Evidence of factors, including but not limited to, unsound management practices and/or unstable market conditions which may affect the solvency of the depository;
- (c) Violation of the provisions of the "Florida Security for Public Deposits Act" or these rules.

Specific Authority 280.19 FS. Law Implemented 280.04, 280.05(6), 280.16 FS. History--New 1-23-91, Amended 7-12-92, Formerly 4C-2.024.

69C-2.026 Administration of Payment of Losses.

The public depositor, by submission of a Public Deposit Claim Form and Agreement Form DI4-1012, agrees to the following terms:

(1) Proof of authorization to execute the Public Deposit Claim Form and Agreement on behalf of the public depositor shall accompany the claim. Proof shall be in the form specified in Rule 69C-2.032, F.A.C.

(2) An assertion that the claim is for money which meets the definition of a public deposit under Section 280.02, F.S., and is not exempt under the laws of Florida shall be made by the public depositor.

(3) Responsibility for research or defense required to support the assertion that the claim covers a public deposit and is not exempt shall be accepted by the public depositor.

(4) A current Public Deposit Identification and Acknowledgment Form DI4-1295 as required in Section 280.17, F.S., will accompany the claim. This form shall state, without alteration, the account number, account type, and account name which are identical to that stated in the Public Deposit Claim Form and Agreement and on the records of the Qualified Public Depository.

(5) Evidence of the deposit insurance afforded this public deposit and offsets allowed shall accompany the claim. The net claim shall be an uncompensated loss which is not subject to any indemnification other than that provided by Chapter 280, F.S.

(6) Assignment to the Chief Financial Officer of any interest in funds that become available to the defaulted qualified public depository, with respect to the amount of the claim, shall be made by the public depositor.

(7) Indemnification of the Chief Financial Officer for any claims of other parties, including costs of litigation and attorneys' fees, with respect to the claim, shall be made by the public depositor.

Specific Authority 280.19 FS. Law Implemented 280.08, 280.085, 280.10, 280.17(1)(b) FS. History--New 7-12-92, Amended 2-1-93, 4-5-99, Formerly 4C-2.026.

69C-2.027 Effective Date of Withdrawal Due to an Acquisition or Merger.

(1) When a non-qualified depository acquires, merges, or consolidates with a Qualified Public Depository, the resulting institution automatically becomes a Qualified Public Depository for thirty (30) days, and assumes the contingent liability, required collateral, and reporting requirements of the former Qualified Public Depository relative to the Public Depository Program.

(2) Banks and savings associations that desire to become a Qualified Public Depository shall make application to the Chief Financial Officer within thirty (30) days of the acquisition, merger, or consolidation.

(3) Banks, savings associations, or other types of institutions which do not meet the requirements to become a Qualified Public Depository must relinquish all public deposits held by the former Qualified Public Depository.

(4) If the resulting bank or savings association chooses not to become a Qualified Public Depository, the contingent liability, required collateral and reporting requirements of the former Qualified Public Depository shall continue for a period of twelve (12) months after the effective date of withdrawal and the resulting institution shall:

(a) Provide to the Chief Financial Officer within the 30 day grace period official written notice of its decision not to become a Qualified Public Depository, stating an effective date of withdrawal, which shall not be more than six months from the date of the acquisition, merger, or consolidation. The institution shall not open any new public deposit accounts after the date of official notice of withdrawal to the Chief Financial Officer, and it shall not accept or retain any public deposits after that effective date.

(b) Submit with the written notice of withdrawal to the Chief Financial Officer, a list of all public deposit accounts, including

those with balances of less than \$100,000. This list must be signed by the Chief Executive Officer and include all account names, account numbers, balances, and maturity dates if applicable. The list shall include a schedule specifying when each account is to be closed.

(c) File all monthly, quarterly, and annual reports required by Chapter 280, F.S., and submit with each monthly report an updated list of public deposit accounts as of the last day of the month reported. When all accounts are closed, it shall continue to file monthly reports for twelve (12) months, at which time the contingent liability of the former Qualified Public Depository shall cease to exist, and all collateral pledged will be released upon request.

(d) Provide to the Chief Financial Officer, when all public deposit accounts have been closed, a written certified notice that the institution no longer holds any public deposits, signed by an authorized third party qualified to conduct audits.

(e) Notify all public depositors, as shown on the list of public deposit accounts described in paragraph (b) above, that the resulting institution is not a Qualified Public Depository, and the funds it holds for those depositors shall cease to be protected by Chapter 280, F.S., after the effective date of withdrawal. Penalties incurred because of early withdrawal shall be the responsibility of the withdrawing depository pursuant to Section 280.11(3), F.S.

Specific Authority 280.19 FS. Law Implemented 280.09(2), 280.10, 280.11 FS. History—New 7-12-92, Formerly 4C-2.027.

69C-2.028 Ownership of Collateral by an Operating Subsidiary of the Qualified Public Depository.

Collateral securing public deposits may, at the discretion of the Qualified Public Depository, be owned in the name of an Operating Subsidiary if:

- (1) 100% of the stock of the Operating Subsidiary is owned and controlled by the Qualified Public Depository;
- (2) The Operating Subsidiary is a party to and bound by all the terms of the Public Depository Pledge Agreement Form DI4-1001, incorporated by reference in Rule 69C-2.009, F.A.C.;
- (3) The Operating Subsidiary is a party to and bound by all the terms of the Contingent Liability Agreement and Affidavit Form DI4-1000, incorporated by reference in Rule 69C-2.009, F.A.C.;
- (4) The Public Depository Pledge Agreement Form DI4-1001 and Contingent Liability Agreement and Affidavit Form DI4-1000 are approved by the boards of directors of both the Qualified Public Depository and the Operating Subsidiary, and approval is reflected in the minutes of those boards;
- (5) Certified copies of the relevant portions of the board minutes specified in subsection (4) above and the board resolution are provided to the Chief Financial Officer with Forms DI4-1001 and DI4-1000;
- (6) The ownership of the collateral by the Operating Subsidiary in no way impairs the security interest of the Chief Financial Officer in the collateral;
- (7) The Chief Financial Officer does not disapprove the ownership of the collateral by the Operating Subsidiary; and
- (8) The Qualified Public Depository shall remain fully responsible and accountable for the actions of its Operating Subsidiary and shall be subject to administrative action pursuant to Chapter 280, F.S.

Specific Authority 280.19 FS. Law Implemented 280.02, 280.04, 280.05 FS. History—New 5-27-97, Formerly 4C-2.028.

69C-2.029 Authorized Agent.

A Qualified Public Depository may elect to have an Authorized Agent for Reports, and a Qualified Public Depository or an Operating Subsidiary, if one is used, may elect to have an Authorized Agent for Transactions under the following circumstances:

- (1) The Qualified Public Depository or Operating Subsidiary, if one is used, is the owner of the collateral;
- (2) The Qualified Public Depository, or Operating Subsidiary, if one is used, is the account name on the custodian records; or, if the collateral is in the Chief Financial Officer name, the sub-account name;
- (3) The Qualified Public Depository, and the Operating Subsidiary, if one is used, have executed the Public Depository Pledge Agreement Form DI4-1001 in their names;
- (4) Certified copies of the relevant portions of board minutes and resolution detailing the authorization from the boards of directors of the Qualified Public Depository, and the Operating Subsidiary, if one is used, and the authorized agent are provided to the Chief Financial Officer;

(5) The Qualified Public Depository shall remain fully responsible and accountable for the actions of the Authorized Agent and shall subject to administrative action, pursuant to Chapter 280, F.S.;

(6) The election of an Authorized Agent in no way impairs the security interest of the Chief Financial Officer in the collateral;

(7) The Chief Financial Officer does not disapprove the election of an Authorized Agent; and

(8) The Qualified Public Depository, the Operating Subsidiary, if one is used, and the agent provide proof of the agency relationship.

Specific Authority 280.19 FS. Law Implemented 280.02, 280.04, 280.05 FS. History--New 5-27-97, Formerly 4C-2.029.

69C-2.030 Use of Agents by Custodians of Collateral.

A custodian may elect to have the Chief Financial Officer complete collateral transactions directly with the custodian's agent under the following circumstances:

(1) Both the agent and the custodian meet the definition of a custodian in Section 280.02(6), F.S.

(2) Both the agent and the custodian complete a Public Depository Pledge Agreement Form DI4-1001.

(3) The custodian and agent provide proof of the agency relationship.

Specific Authority 280.19 FS. Law Implemented 280.02, 280.04, 280.05 FS. History--New 5-27-97, Formerly 4C-2.030.

69C-2.031 Format for Confirmations from Custodians.

(1) A custodian shall, upon request from the Chief Financial Officer, provide confirmation of securities pledged by a Qualified Public Depository, or Operating Subsidiary, if one is used.

(2) All costs associated with the confirmation shall be borne by the Qualified Public Depository or the Operating Subsidiary, if one is used.

(3) The request from the Chief Financial Officer shall be consistent with the information provided in the Public Depository Pledge Agreement, and shall identify the account by the name and location of the Qualified Public Depository, or Operating Subsidiary, if one is used. Account numbers or other special identification cannot be required by the custodian in fulfilling the request unless specified in that agreement.

(4) The custodian shall confirm securities that meet all of the following criteria:

(a) Account name on the records of the custodian is the specified Qualified Public Depository or Operating Subsidiary, if one is used;

(b) Pledged to the Chief Financial Officer of Florida to secure public deposits pursuant to the Florida Security for Public Deposits Act.

(5) Securities meeting any of the following criteria shall not be included:

(a) Recorded under any account name other than the Qualified Public Depository or Operating Subsidiary, if one is used;

(b) Not pledged to the Chief Financial Officer of Florida; or

(c) Pledged for purposes other than to secure public deposits pursuant to the Florida Security for Public Deposits Act.

(6) The custodian shall restrict abbreviations used in the confirmation to those accepted industry wide.

(7) The confirmation information on the securities shall be submitted as requested by the Chief Financial Officer, either in a specified electronic format or on 8.5" by 11" plain white paper, in landscape orientation, using a 10 or 12 pitch font, with bottom center or upper right-hand page numbers. Information shall be listed in columns with headings for the required items.

(8) The confirmation on securities shall contain all of the following items applicable to a specific security type:

(a) Full name and location of Qualified Public Depository, or Operating Subsidiary, if one is used.

(b) The nine-digit CUSIP number identifying the specific security issue.

(c) Complete security description with any pool or class numbers.

(d) Interest rate, with variable rate securities indicated as "V".

(e) Maturity date.

(f) Original par/face amount or number of units or shares.

(g) Current par value or number of units or shares.

(h) Totals for the original par/face amount and the current par value columns.

(9)(a) The confirmation shall include the following statement from an authorized person as the custodian:

Securities with a total original par/face value of \$_____ listed in this confirmation were pledged as of __DATE__ according to the Public Depository Pledge Agreement Form DI4-1001 with __DEPOSITORY NAME__ and __OPERATING SUBSIDIARY, IF USED__, for the sole purpose of securing public deposits pursuant to the Florida Security for Public Deposits Act. I declare that I am legally authorized to execute this document on behalf of this organization.

(b) This statement shall be on official stationery of the custodian, and shall include the authorized person's signature and printed or typed name, title, address, and telephone/fax numbers.

Specific Authority 280.19 FS. Law Implemented 280.02, 280.04, 280.05 FS. History--New 5-27-97, Formerly 4C-2.031.

69C-2.032 Execution of Forms, Proof of Authorization.

(1) When the following forms, listed in Rule 69C-2.009, F.A.C., are submitted to the Chief Financial Officer, they shall be accompanied by proof that the individuals executing the forms on behalf of the organization are authorized to execute the forms on behalf of the organization:

- | | |
|--------------------------|---|
| (a) DI4-1000 (rev. 3/97) | Contingent Liability Agreement
and Affidavit |
| (b) DI4-1001 (rev. 3/97) | Public Depository Pledge
Agreement |
| (c) DI4-1004 (rev. 6/98) | Qualified Public Depository
Annual Report to the Chief Financial Officer |
| (d) DI4-1008 (rev. 3/92) | Power of Attorney |
| (e) DI4-1009 (rev. 6/98) | Public Depositor Annual Report
to the Chief Financial Officer |
| (f) DI4-1012 (rev. 6/98) | Public Deposit Claim Form and
Agreement. |

(2) The proof specified in subsection (1) above shall be in the form of a certified copy, or a certified pertinent extract from, one of the following:

(a) The minutes of a board meeting evidencing adoption of a resolution by the organization's board of directors authorizing the individual signing the form by name or title to sign such a document on behalf of the organization;

(b) The organization's charter, constitution, bylaws, or other evidence of the governing body, authorizing the individual signing the form by name or title to sign such a document on behalf of the organization;

(c) Evidence of incumbency for constitutional public officers.

(3) Authorization to execute the forms on behalf of a governmental unit may be delegated by an official through the organization's internal structure if documentation of both paragraphs (a) and (b) below is furnished:

(a) A copy of the organization's internal documentation, signed by the government official, stating the delegation of authority by name or title.

(b) Proof as specified in subsection (2) above for the governmental official signing the internal documentation which states the delegation of authority.

Specific Authority 280.19 FS. Law Implemented 280.02, 280.04, 280.05 FS. History--New 5-27-97, Amended 4-5-99, Formerly 4C-2.032.