

1 HB85
2 215946-2
3 By Representative Garrett
4 RFD: State Government
5 First Read: 11-JAN-22

1 "(b) (1) The State Treasurer shall be a permanent,
2 standing, voting member of the board of directors and shall
3 serve as its chair. The Superintendent of Banks shall be a
4 permanent, standing, non-voting member of the board of
5 directors. The remaining six members shall each possess
6 knowledge, skill, and experience in one or more of the
7 following areas:

8 "~~(1)~~a. Financial analysis.

9 "~~(2)~~b. Trend analysis.

10 "~~(3)~~c. Accounting.

11 "~~(4)~~d. Banking.

12 "~~(5)~~e. Risk management.

13 "~~(6)~~f. Investment management.

14 "(2) The remaining six members shall be comprised of
15 four members each of whom shall be a representative of an
16 active qualified public depository, which is not in the
17 process of withdrawing from the SAFE Program and which is in
18 compliance with all applicable rules, regulations, and
19 reporting requirements of this chapter, one of whom will be
20 selected and approved by the State Treasurer and three of whom
21 shall be selected and approved by the State Treasurer from
22 three or more nominations submitted by the Alabama Bankers
23 Association (or any successor association or entity, or, if no
24 such association or successor association or entity shall then
25 exist, submitted by the Superintendent of Banks); one member
26 who shall be a representative of a municipality within the
27 state and who will be selected and approved by the State

1 Treasurer from one or more nominations submitted to the State
2 Treasurer by the League of Municipalities of Alabama; and one
3 member who shall be a representative of a county within the
4 state and who will be selected and approved by the State
5 Treasurer from one or more nominations submitted to the State
6 Treasurer by the Association of County Commissions of Alabama.

7 "(3) The appointing authorities shall coordinate
8 their appointments to ensure the membership is inclusive and
9 reflects the racial, gender, geographic, urban, rural, and
10 economic diversity of the state.

11 ~~"(3)~~ (4) The terms of the members of the board of
12 directors other than the State Treasurer and the
13 Superintendent of Banks shall be four years, except that, with
14 respect to the initial appointments, as determined by the
15 State Treasurer, one member will serve one year, one member
16 will serve two years, two members will serve three years, and
17 two members will serve four years. Any person appointed to
18 fill a vacancy on the board may serve only for the remainder
19 of the unexpired term. Any member is eligible for
20 reappointment and shall serve until a successor is selected.

21 ~~"(4)~~ (5) The chair shall annually designate a member
22 of the board of directors to serve as vice chair, and a
23 secretary who need not be a member of the board of directors.
24 The secretary shall keep a record of the proceedings of the
25 board of directors and shall be the custodian of all printed
26 materials filed with or by the board.

1 "~~(5)~~ (6) Notwithstanding the existence of vacancies
2 on the board of directors, two thirds of the voting members
3 then serving shall constitute a quorum. The board of directors
4 may not take official action in the absence of a quorum.

5 "~~(6)~~ (7) The board of directors shall meet quarterly
6 and at other times deemed necessary to assess and manage the
7 operations of the SAFE Program.

8 "~~(7)~~ (8) ~~Meetings~~ Except as otherwise specifically
9 provided in subdivision (8) only as it relates to virtual
10 participation of members of the board and the public, all
11 meetings and notice of meetings of the board of directors,
12 including meetings at which administrative fines and penalties
13 are established, shall be subject to the provisions of ~~Section~~
14 ~~13A-14-2, as amended, the Sunshine Law, except~~ the Alabama
15 Open Meetings Act, Section 36-25A-1 et seq.; provided, that
16 sessions at which any information that is confidential under
17 the provisions of subsection (f) below shall not be subject to
18 Section 13A-14-2, and shall not be open to the public.

19 "~~(8)~~ (9) Members of the board of directors or any
20 committee established by the board may participate in a
21 meeting of the board or committee by means of telephone
22 conference, video conference, or similar communications
23 equipment by means of which all persons participating in the
24 meeting may hear each other at the same time. Participation by
25 means authorized in this subdivision shall constitute presence
26 in person at a meeting for all purposes, including the
27 establishment of a quorum, to deliberate and to take action.

1 The telephone or video conference or similar communications
2 equipment shall also allow members of the public the
3 opportunity to simultaneously listen to or observe meetings
4 held pursuant to this subdivision.

5 "(c) In adopting, amending or repealing any rule,
6 regulation, standard, or statement of general applicability,
7 the board of directors shall be subject to the applicable
8 requirements of the Alabama Administrative Procedure Act,
9 Chapter 22 of this title.

10 "(d) In connection with the assessment and
11 management of the sufficiency of the collateral pool and the
12 SAFE Program to provide adequate protection from losses to
13 public depositors, the board of directors shall be authorized
14 to exercise the following powers:

15 "(1) Designate financial institutions as qualified
16 public depositories and require such collateral, or increase
17 the collateral-pledging level, of any qualified public
18 depository as may be necessary to administer the provisions of
19 this chapter and to ensure the sufficiency of the collateral
20 pool and the SAFE Program to provide adequate protection from
21 losses to public depositors.

22 "(2) Establish guidelines for accepting, or for
23 reducing the reported value of, collateral as circumstances
24 may require in order to ensure the pledging of sufficient
25 marketable collateral to meet the purposes of this chapter.

26 "(3) Authorize the State Treasurer to issue
27 suspensions, disqualifications, administrative penalties, and

1 cease and desist orders in accordance with Section 41-14A-7
2 against any qualified public depository that has violated any
3 of the provisions of this chapter or any rules, regulations,
4 or orders of the board of directors or the State Treasurer
5 adopted under this chapter.

6 "(4) Take such actions as the board of directors
7 shall consider to be necessary, appropriate, or desirable in
8 order to assess and manage the sufficiency of the collateral
9 pool and the SAFE Program to provide adequate protection from
10 losses to public depositors, including, without limitation:

11 "a. Establish procedures for the verification of the
12 reports of any qualified public depository relating to public
13 deposits it holds when necessary to ensure the availability of
14 adequate funds to pay any potential losses to public
15 depositors.

16 "b. Establish criteria, based on the overall
17 financial condition of the participants and applicants, as may
18 be necessary, to ensure the sufficiency of the collateral pool
19 and the SAFE Program to provide adequate protection from
20 losses to public depositors.

21 "c. Establish collateral-pledging levels based on
22 qualitative and quantitative standards.

23 "d. Establish rules and procedures for the State
24 Treasurer to monitor and confirm, as often as deemed necessary
25 by the State Treasurer, the pledged collateral held by
26 custodians.

1 "e. Set requirements for the filing by qualified
2 public depositories, custodians, the State Treasurer, the
3 board's agents and contractors, and other persons of such
4 documents, reports, records, or other information deemed
5 necessary by the board of directors to monitor the sufficiency
6 of the collateral pool and the SAFE Program to provide
7 adequate protection from losses to public depositors,
8 including, without limitation:

9 "1. Require reports of each qualified public
10 depository to reflect the net average monthly balance of the
11 public deposits held by the qualified public depository and to
12 reflect the collateral pledged by qualified public
13 depositories under this chapter, which reports shall not be
14 required more frequently than monthly except in the case of
15 any qualified public depository that is then subject to
16 default or insolvency or is the subject of an order of
17 suspension or disqualification or a cease and desist order
18 issued by the State Treasurer.

19 "2. Require the submission of copies of quarterly or
20 annual financial and regulatory reports of qualified public
21 depositories.

22 "f. Direct the State Treasurer to maintain perpetual
23 inventory of pledged collateral.

24 "g. Perform, or direct the State Treasurer to
25 perform, financial analysis of any qualified public depository
26 as needed.

1 "h. Establish a minimum amount of required
2 collateral as the board of directors deems necessary to
3 provide for the contingent liability pool.

4 "(5) Empower the State Treasurer to sell pledged
5 securities, or move pledged securities to an account
6 established in the Loss Payment Fund's name, for the purpose
7 of paying losses to public depositors not covered by deposit
8 insurance or to perfect the Loss Payment Fund's interest in
9 the pledged securities.

10 "(6) Empower the State Treasurer to transfer funds
11 directly from any custodian to public depositors or the
12 receiver in order to facilitate prompt payment of claims.

13 "(7) Adopt and implement, and monitor compliance
14 with, such standards, rules, regulations, guidelines, and
15 orders as the board of directors shall consider to be
16 appropriate or desirable for the purposes of maintaining the
17 sufficiency of the collateral pool to provide adequate
18 protection from losses to public depositors.

19 "(8) Delegate to the State Treasurer all of the
20 responsibility for the day-to-day administration of the SAFE
21 Program and of the standards, rules, regulations, guidelines,
22 and orders adopted by the board of directors, as deemed
23 appropriate or desirable by the board of directors.

24 "(9) Establish the conditions under which entities
25 resulting from mergers, consolidations, sales of assets and
26 similar transactions involving qualified public depositories
27 will succeed qualified public depositories and assume the

1 former institution's contingent liability agreement under
2 Section 41-14A-8, and to prescribe requirements for
3 notification by qualified public depositories to the board of
4 mergers, consolidations, sales of assets, changes of address,
5 changes of name, and similar matters.

6 "(10) Establish the conditions under which qualified
7 public depositories will be required to involuntarily withdraw
8 from participation in the program and for the conditions under
9 which collateral pledged by withdrawing qualified public
10 depositories will be released.

11 "(11) Authorize the filing of any information or
12 forms required under this chapter to be by electronic data
13 transmission. Such filings of information or forms shall have
14 the same force and effect as a signed writing.

15 "(e) The board of directors shall adopt rules or
16 regulations empowering the State Treasurer to impose
17 requirements on qualified public depositories to ensure that
18 applicable accounts maintained by covered public entities and
19 covered public officials are adequately identified as public
20 deposits covered by this chapter and that each qualified
21 public depository can identify on its records the name,
22 address, and federal employer identification number of the
23 covered public entities and covered public officials
24 maintaining public deposits in such qualified public
25 depository. The State Treasurer may require that each
26 qualified public depository shall provide an annual statement
27 to each public depositor then maintaining public deposits with

1 the qualified public depository summarizing the balances of
2 public deposits held by the qualified public depository for
3 the public depositor. The balances reflected in any such
4 annual statement provided by a qualified public depository
5 shall be deemed correct unless the public depositor notifies
6 the qualified public depository to the contrary within 60 days
7 of receipt of the statement.

8 "(f) Any information contained in a report of a
9 financial institution provided to the board of directors or
10 the State Treasurer under this chapter shall, if made
11 confidential by any law of the United States or of this state
12 and if the board is notified by the financial institution of
13 such confidentiality, be considered confidential and exempt
14 from the provisions of Section 36-12-40, and not subject to
15 dissemination to anyone other than the board of directors and
16 the State Treasurer under the provisions of this chapter.

17 "(g) Members of the board of directors shall serve
18 without compensation, but shall be reimbursed for each day's
19 official duties of the board of directors at the same per diem
20 and travel rate as is paid employees of the state.

21 "(h) Neither the board of directors nor the State
22 Treasurer shall have the authority to assess, charge, or
23 collect any of the costs associated with the implementation,
24 administration, or enforcement of the SAFE Program against any
25 covered public entities, covered public officials, or
26 qualified public depositories, provided, however, that this
27 subsection shall not limit or restrict the authority of the

1 board or the State Treasurer, as applicable, to impose
2 administrative penalties or order restitution pursuant to
3 Section 41-14A-7 or to make assessments against qualified
4 public depositories for losses in accordance with Section
5 41-14A-9."

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and
referred to the House of Represen-
tatives committee on State Govern-
ment..... 11-JAN-22

Read for the second time and placed
on the calendar..... 09-FEB-22

Read for the third time and passed
as amended..... 31-MAR-22

Yeas 100, Nays 0, Abstains 0

Jeff Woodard
Clerk