

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0591.02 Pierce Lively x2059

HOUSE BILL 19-1179

HOUSE SPONSORSHIP

Gray,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE FINANCIAL RISK PROFILES OF LEGAL INVESTMENTS**
102 **OF PUBLIC FUNDS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill modifies statutes governing the legal investments of public funds as follows:

- ! Allows public entities to invest in the federal agricultural mortgage corporation;
- ! Modifies and standardizes the credit rating requirements for securities invested in by public entities;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 19, 2019

- ! Requires rating requirements to first apply to the security being purchased by a public entity and, if there is no such rating, to then apply to the issuer;
- ! Clarifies that negotiable certificates of deposit are a legal investment and not deposits subject to the limitation of the "Public Deposit Protection Act";
- ! Includes the secured overnight financing rate as an allowable index; and
- ! Allows public entities to invest in local government investment pools.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-75-601, **add** (4)
 3 and (5) as follows:

4 **24-75-601. Definitions.** (4) "NATIONALLY RECOGNIZED
 5 STATISTICAL RATING ORGANIZATIONS" OR "NRSROs" MEANS A CREDIT
 6 RATING AGENCY THAT IS REGISTERED WITH THE U.S. SECURITIES AND
 7 EXCHANGE COMMISSION'S OFFICE OF CREDIT RATINGS.

8 (5) "NEGOTIABLE CERTIFICATE OF DEPOSIT" MEANS AN
 9 UNSECURED, NONCOLLATERALIZED OBLIGATION OF A BANK TO PAY THE
 10 HOLDER OF A NEGOTIABLE CERTIFICATE OF DEPOSIT SPECIFIED PRINCIPAL,
 11 PLUS INTEREST, UPON A PARTICULAR MATURITY. A NEGOTIABLE
 12 CERTIFICATE OF DEPOSIT IS A SECURITY SUBJECT TO FEDERAL SECURITIES
 13 LAW AND CAN BE UNIQUELY IDENTIFIED BY A SECURITY IDENTIFIER ISSUED
 14 BY THE COMMITTEE ON UNIFORM SECURITIES IDENTIFICATION
 15 PROCEDURES.

16 **SECTION 2.** In Colorado Revised Statutes, 24-75-601.1, **amend**
 17 (1)(d)(II) introductory portion, (1)(d)(II)(A), (1)(e)(II), (1)(h.5),
 18 (1)(k)(III), (1)(l)(I), (1.3)(a) introductory portion, and (1.3)(a)(I); **repeal**
 19 (1)(k)(IV); and **add** (1)(m)(IV) as follows:

20 **24-75-601.1. Legal investments of public funds - definition.**

1 (1) It is lawful to invest public funds in any of the following securities:

2 [REDACTED]

3 (d) (II) No security may be purchased pursuant to this paragraph

4 ~~(d)~~ SUBSECTION (1)(d) unless:

5 (A) At the time of purchase, the security carries at least two credit
6 ratings at or above "A A- OR A3" or its equivalent from nationally
7 recognized statistical rating organizations NRSROs if it is a general
8 obligation of this state or of any political subdivision, institution,
9 department, agency, instrumentality, or authority of this state or carries at
10 least two credit ratings at or above "AA AA- OR Aa3" or its equivalent
11 from such organizations NRSROs if it is a general obligation of any other
12 governmental entity listed in subparagraph (I) of this paragraph (d)
13 SUBSECTION (1)(d)(I) OF THIS SECTION;

14 (e) (II) No security may be purchased pursuant to this paragraph

15 ~~(e)~~ SUBSECTION (1)(e) unless, at the time of purchase, the security carries
16 at least two credit ratings at or above "A A- OR A3" or its equivalent from
17 nationally recognized statistical rating organizations NRSROs if it is a
18 revenue obligation of this state or of any political subdivision, institution,
19 department, agency, instrumentality, or authority of this state or carries at
20 least two credit ratings at or above "AA AA- OR Aa3" or its equivalent
21 from such organizations NRSROs if it is a revenue obligation of any
22 other governmental entity listed in subparagraph (I) of this paragraph (e)
23 SUBSECTION (1)(e)(I) OF THIS SECTION.

24 (h.5) Any certificate of participation or other security evidencing
25 rights in payments to be made by a school district under a lease,
26 lease-purchase agreement, or similar arrangement if the security, at the
27 time of purchase, carries at least two credit ratings from nationally

1 ~~recognized statistical rating organizations~~ NRSROs and is rated at or
2 above "A A- OR A3" or its equivalent by all such organizations that have
3 provided a rating;

4 (k) Any money market fund that is registered as an investment
5 company under the federal "Investment Company Act of 1940", as
6 amended, if, at the time the investing public entity invests in such fund:

7 (III) ~~The investments of The fund consist only of securities with~~
8 ~~a maximum remaining maturity as specified in~~ OPERATES IN ACCORDANCE
9 WITH rule 2a-7 under the federal "Investment Company Act of 1940", as
10 amended, or any successor regulation under ~~such~~ THAT act regulating
11 money market funds. ~~THE FUND MUST HAVE AN INVESTMENT POLICY OR~~
12 ~~OBJECTIVE WHICH SEEKS TO MAINTAIN A STABLE NET ASSET VALUE OF ONE~~
13 ~~DOLLAR PER SHARE. so long as such rule 2a-7 is not amended to, or such~~
14 ~~successor regulation does not, increase the maximum remaining maturity~~
15 ~~of such securities to a period that is greater than three years, and if the~~
16 ~~fund has assets of one billion dollars or more, or has the highest current~~
17 ~~credit rating from one or more nationally recognized statistical rating~~
18 ~~organizations.~~

19 (IV) ~~The dollar-weighted average portfolio maturity of the fund~~
20 ~~meets the requirements specified in rule 2a-7 under the federal~~
21 ~~"Investment Company Act of 1940", as amended, or any successor~~
22 ~~regulation under such act regulating money market funds, so long as such~~
23 ~~rule 2a-7 is not amended to increase the dollar-weighted average portfolio~~
24 ~~maturity of a fund to a period greater than one hundred eighty days.~~

25 (l) (I) Any guaranteed investment contract, guaranteed interest
26 contract, annuity contract, or funding agreement if, at the time the
27 contract or agreement is entered into, the long-term credit rating, financial

1 obligations rating, claims paying ability rating, or financial strength rating
2 of the party, or of the guarantor of the party, with whom the public entity
3 enters the contract or agreement is, at the time of issuance, rated in one
4 of the two highest rating categories by two or more nationally recognized
5 statistical rating organizations NRSROs.

6 (m) (I) Any corporate or bank security that is denominated in
7 United States dollars, that matures within three years from the date of
8 settlement, that at the time of purchase carries at least two credit ratings
9 from any of the nationally recognized statistical ratings organizations
10 NRSROs, and that is not rated below:

11

12 (IV) AS USED IN THIS SUBSECTION (1)(m), THE TERM "BANK
13 SECURITY" INCLUDES NEGOTIABLE CERTIFICATES OF DEPOSIT ISSUED BY
14 BANKS ORGANIZED AND CHARTERED WITHIN THE UNITED STATES. PUBLIC
15 ENTITIES MUST CONSIDER THESE BANK SECURITIES AS INVESTMENTS AND
16 NOT DEPOSITS SUBJECT TO THE PROTECTIONS OF THE "PUBLIC DEPOSIT
17 PROTECTION ACT", ARTICLE 10.5 OF TITLE 11, OR INSURED BY THE
18 FEDERAL DEPOSIT INSURANCE CORPORATION.

19 (1.3) (a) Except as provided in paragraph (a) of subsection (1) of
20 this section and except as provided in paragraph (b) of this subsection
21 (1.3) SUBSECTIONS (1)(a) AND (1.3)(b) OF THIS SECTION, public funds
22 shall MUST not be invested in any security on which the coupon rate is not
23 fixed, or a schedule of specific fixed coupon rates is not established, from
24 the time the security is settled until its maturity date, other than shares in
25 qualified money market mutual funds, unless the coupon rate is:

26 (I) Established by reference to the rate on a United States treasury
27 security with a maturity of one year or less or to the United States dollar

1 London interbank offer rate of one year or less maturity, ~~or to~~ THE
2 SECURED OVERNIGHT FINANCING RATE, THE FEDERAL FUNDS RATE, OR
3 OTHER REFERENCE RATES WHICH ARE SIMILAR TO THE UNITED STATES
4 DOLLAR LONDON INTERBANK OFFER RATE, THE SECURED OVERNIGHT
5 FINANCING RATE, THE FEDERAL FUNDS RATE, the cost of funds index, or
6 the prime rate as published by the federal reserve; and

7 **SECTION 3.** In Colorado Revised Statutes, 24-75-702, **amend**
8 (1) as follows:

9 **24-75-702. Local governments - authority to pool surplus**
10 **funds.** (1) In accordance with ~~the provisions of this part 7,~~ it is lawful for
11 any local government to pool any ~~moneys~~ MONEY in its treasury, which
12 ~~are~~ IS not immediately required to be disbursed, with the same ~~such~~
13 ~~moneys~~ MONEY in the treasury of any other local government and to
14 ~~deposit~~ INVEST such ~~moneys~~ MONEY in a local government investment
15 pool trust fund in order to ~~take advantage of short-term investments and~~
16 ~~maximize net interest earnings~~ MORE EFFICIENTLY AND SAFELY INVEST
17 THEIR FUNDS.

18 **SECTION 4. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2020 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.