

**VIRGINIA SECURITY FOR PUBLIC DEPOSITS ACT  
REGULATIONS**

**§10. General.**

The definitions provided by §2.2-4401 of the Code of Virginia shall be used throughout this chapter unless the context requires otherwise.

The Treasury Board has designated the State Treasurer to be the chief administrative officer with respect to the provisions of the Virginia Security for Public Deposits Act (the "Act") (§2.2-4400 et seq. of the Code of Virginia) and the State Treasurer reserves the right to designate a representative to act on his behalf.

The primary responsibility for compliance with the Act rests upon the financial institutions that accept and hold public deposits. If the deposit is a "public deposit," the deposit must be secured pursuant to the Act. If a depositor is unable to ascertain whether a particular deposit is a "public deposit" for purposes of the Act, he should obtain the essential details and communicate with the State Treasurer's office by the use of a notice of election form.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §1; eff. November 18, 1993.

**§20. Effective date.**

This chapter, as amended, shall be effective on and after November 18, 1993.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §2; eff. November 18, 1993.

**§30. Required collateral for banks.**

The required collateral of a national or state chartered bank to secure public deposits shall be determined according to the following applicable criteria and shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value for collateralization purposes not less than:

**1. Fifty percent.** Fifty percent of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 50% of the average balance of public deposits for the immediately preceding month, whichever is greater; *Superceded by actions of the Treasury Board. See Collateral Requirements of Pooled Depositories and Treasury Board Opt-out Guidelines, which apply to all qualified public depositories.*

**2. Seventy-five percent.** In the event a bank's average daily public deposits for the immediately preceding month exceed one-fifth of its average daily total deposits, the required collateral will be 75% of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 75% of the average balance of public deposits for the immediately preceding month, whichever is greater;

**3. One hundred percent.** In the event a bank's average daily public deposits for the immediately preceding month exceed one-fifth of its average daily total deposits and the bank has not been actively engaged in the commercial banking business for at least three years, or in the event that a bank's average daily public deposits for the immediately preceding month exceed one-third of its average daily total deposits, or in the event that a bank has not been actively engaged in the commercial banking business for at least one year, the required collateral will be 100% of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 100% of the average balance of public deposits for the immediately preceding month, whichever is greater.

In the event a bank has violated the pledging statutes and regulations or for other reasons deemed sufficient, such as the financial condition of the bank or the reasons referred to in 1VAC75-20-130, the Treasury Board may increase the bank's ratio of required collateral to 100% of its actual public deposits.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §3; eff. November 18, 1993.
Cross References	Value of collateral at current market value for reporting purposes, 1VAC75-20-70.
Valuation of collateral by public depository,	1VAC75-20-80.

#### **§40. Required collateral for savings institutions.**

The required collateral of a savings institution to secure public deposits shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value, for collateralization purposes, not less than a sum equal to 100% of the average daily balance of public deposits held by such savings institution for the immediately preceding month, but shall not be less than 100% of the public deposits held by such savings institution at the close of business on the last banking day of the immediately preceding month. *Superseded by actions of the Treasury Board. See Collateral Requirements of Pooled Depositories and Treasury Board Opt-out Guidelines, which apply to all qualified public depositories.*

In the event that a savings institution has violated the pledging statutes and regulations, or for other reasons deemed sufficient, such as the financial condition of the savings institution or the reasons referred to in 1VAC75-20-130, the Treasury Board may increase such savings institution's ratio of required collateral above 100% of its actual public deposits.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §4; eff. November 18, 1993.
Cross References	Value of collateral at current market value for reporting purposes, 1VAC75-20-70.

#### **§50. Average daily balance computation.**

The average daily balance for any month shall be derived by dividing the sum of the daily balances of any item being computed by the number of calendar days in the month.

In computing the amount of public deposits and the average balance of public deposits to be collateralized during any month, there shall be excluded the amount of each deposit which is insured by federal deposit insurance.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §5; eff. November 18, 1993.

**§60. Eligible collateral.**

A. Securities eligible for collateral are limited to:

1. Obligations of the Commonwealth. Bonds, notes and other evidences of indebtedness of the Commonwealth of Virginia, and securities unconditionally guaranteed as to the payment of principal and interest by the Commonwealth of Virginia.

2. Obligations of the United States. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof.

3. Obligations of Virginia counties, cities, etc. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the Commonwealth of Virginia upon which there is no default provided that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or unconditionally guaranteed as to the payment of principal and interest by, the county, city, town, district, authority or other public body in question and revenue bonds issued by agencies or authorities of the State of Virginia or its political subdivisions upon which there is no default and which are rated BBB or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

4. Obligations of the International Bank for Reconstruction and Development, African Development Bank, and Asian Development Bank. Bonds and other obligations issued, guaranteed, or assumed by the International Bank for Reconstruction and Development by the African Development Bank, or by the Asian Development Bank.

5. Obligations partially insured or guaranteed by any U.S. Government Agency.

6. Obligations (including revenue bonds) of states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Services, Inc. or Standard & Poor's Corporation.

7. Corporate Notes rated AA by both Moody's Investors Services, Inc. and Standard & Poor's Corporation with a maximum maturity of 10 years.

8. Any additional securities approved by the Treasury Board pursuant to §2.2-4405(d) for which written notification to qualified public depositories from the State Treasurer will be provided.

B. No security which is in default as to principal or interest shall be acceptable as collateral.

C. No qualified public depository shall utilize securities issued by itself, its holding company, or any affiliate for purposes of collateralizing its public deposits.

Securities excluded by action of the Treasury Board pursuant to §2.2-4405(d) of the Code of Virginia shall not be acceptable. Written notification of securities excluded will be provided to qualified public depositories by the State Treasurer.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §6; eff. November 18, 1993.
Cross References	Criteria for selection of escrow agents by State Treasurer, 1VAC75-20-140.

### **§70. Valuation of collateral.**

Each qualified public depository shall value its securities for reporting purposes at current market value as of the close of business on the last banking day of the immediately preceding month. At all times the current market value of collateral must be equal to or greater than a depository's required collateral as defined in §§30, 40 and 80 of this chapter. Current market value is defined as the market value of a security priced on a same day basis or no older than one business day. Business day is defined as the close of a commercial business at 5 p.m.

The State Treasurer, upon written notice to any or all qualified public depositories and eligible escrow agents, may require as deemed necessary for reporting purposes that certain securities that are difficult-to-value or subject to rapid declines in value or otherwise represent a risk of decrease in value be valued at a rate less than 100% of their market value.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §7; eff. November 18, 1993.
Cross References	Substitution of eligible collateral by public depository, 1VAC75-20-90.

### **§80. Deposit of collateral.**

No qualified public depository shall accept or retain any public deposit which is required to be secured unless it has previously executed a "Public Deposit Security Agreement," approved by the depository's Board of Directors or Loan Committee, with such approval reflected in the minutes of said board or committee. The depository shall maintain the security agreement as an official record continuously from the time of its execution. The depository must also have deposited eligible collateral, as defined in these regulations; equal to its required collateral, determined as herein provided, with an eligible escrow agent approved by the State Treasurer. Each depository is responsible for providing a written notification and executing new agreements upon its name change.

Whether or not a qualified public depository has eligible collateral deposited as heretofore provided at the time it receives a public deposit, if such deposit would result in an increase in the qualified public depository's required collateral computed as of the day on which the deposit is received, such qualified public depository shall immediately

deposit sufficient securities to increase its collateral to an amount equal to that determined pursuant to §30 or §40, whichever is applicable, utilizing the qualified public depository's actual public deposits held at the close of business on the banking day such deposit is received in lieu of those held at the close of business on the last banking day in the immediately preceding month. Banking day is defined as the financial institution's close of business at 2 p.m. Written notice of deposit of collateral shall be submitted to the State Treasurer.

At the time of the deposit of registered securities, the qualified public depository owning the securities shall attach appropriate bond power forms as required to allow the State Treasurer to transfer ownership of such registered securities for the purpose of satisfying the qualified public depository's liabilities under the Act in the event the collateral needs to be liquidated.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §9; eff. November 18, 1993.
Cross References	Criteria for selection of escrow agents by State Treasurer, 1VAC75-20-140.

#### **§90. Substitution of eligible collateral.**

A substitution of eligible collateral may be made by the qualified public depository at any time provided that the current market value of the collateral substituted is equal to or greater than the current market value of the collateral withdrawn.

At the time of making a collateral substitution, the qualified public depository shall prepare a request for the substitution upon a form approved by the State Treasurer and deliver the original to the escrow agent and a copy to the State Treasurer. The escrow agent shall not allow a collateral substitution unless the current market value of the collateral to be substituted is equal to or greater than the current market value of the collateral to be withdrawn. Current market value for the escrow agent in regards to a substitution is the market value of a security priced on a same day basis or no older than one business day prior to the date of the substitution. The escrow agent shall calculate adjustments to the current market value of collateral that the State Treasurer has identified as difficult-to-value or subject to rapid declines in value or otherwise represents a risk of decrease in value at the time of substitution to determine if the market value is equal to or greater than the value of the collateral to be withdrawn in accordance with §70.

In the event the current market value of the substituted collateral is not equal to or greater than the value of the collateral to be withdrawn as determined in accordance with §70, the qualified public depository shall obtain written approval of the State Treasurer to substitute the collateral.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §8; eff. November 18, 1993.
Cross References	Value of collateral at current market value for reporting purposes, 1VAC75-20-70

#### **§100. Withdrawal of collateral.**

A qualified public depository shall not be permitted to withdraw collateral previously pledged without the prior written approval of the State Treasurer. The State Treasurer may grant such approval only if the qualified public depository certifies in writing that such withdrawal will not reduce the current market value of its pledged collateral below its required collateral as defined by these regulations, and this certification is substantiated by a statement reporting the qualified public depository's current public deposits which indicates that after withdrawal such deposits will continue to be secured to the full extent required by the law and regulations. Current public deposits are defined as the amount of public deposits held at the time of withdrawal of collateral. If a qualified public depository cannot determine the amount of current public deposits when collateral is to be withdrawn, the depository shall request an exception to this provision from the State Treasurer stating why the depository cannot comply and how it intends to determine the current public deposit balance under this provision. The request for exception must be in writing and formally approved by the State Treasurer. The escrow agent shall not permit the qualified public depository to withdraw collateral without the written approval of the State Treasurer.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §10; eff. November 18, 1993.
Cross References	Criteria for selection of escrow agents by State Treasurer, 1VAC75-20-140.

#### **§110. Reports by qualified public depositories.**

Within 10 business (*Superseded by 2010 amendments to the SPDA. now calendar days.*) days after the end of every month, each qualified public depository shall submit to the State Treasurer a written report, under oath, signed by an authorized officer of the financial institution (*Superseded by 2010 amendments to the SPDA; now an electronic report.*) indicating the total amount of public deposits held by it at the close of business on the last banking day in the immediately preceding month; the average



daily balance for such month of all public deposits held by it during the immediately preceding month; the average balance of all bank deposits for the immediately preceding month; the total required collateral; the total par value and the total current market value of collateral for the immediately preceding month. Included with this report shall be a detailed schedule of pledged collateral to include, but not limited to, the security description, coupon rate, CUSIP (Committee on Uniform Securities Identification Procedures) number, maturity date, debt rating by Moody's Investors Services, Inc. or Standard & Poor's Corporation, par value amount, book or principal value amount and current market value amount, determined pursuant to §70.

At the request of any public depositor for which it holds deposits, within 10 business days after the end of any month, the qualified public depository shall submit a statement indicating the total public deposits in each account to the credit of such depositor on the last banking day in the immediately preceding month and the total amount of all public deposits held by it upon such date.

Within the first 10 business days of each calendar quarter, every qualified public depository shall submit to the State Treasurer a report indicating the account number, type of account, amount of federal deposit insurance applied, total amount on deposit and total amount on deposit to be secured by its pledged collateral or a combined listing containing the same information as an attachment to the "Public Depository Monthly Report" as of the close of business on the last banking day of the calendar quarter being reported. At the same time every qualified public depository shall submit to each public depositor for whom it holds public deposits, a report indicating the account number, type of account, and total account amount to be secured by its pledged collateral.

With the submission of the "Public Depository Monthly Report" to the State Treasurer for the month ending on June 30, qualified public depositories shall attach an annual certification from an independent certified public accountant or their internal audit department, attesting to the accuracy of the public deposit balances reported to the State Treasurer during their previous fiscal year.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §11; eff. November 18, 1993.
Cross References	Notice to State Treasurer by public depositors of unresolved discrepancies, 1VAC75-20-160

## **§120. Reports, by State Treasurer.**

The State Treasurer shall report to the auditors of any public depositor, upon their written request, the status of any qualified public depository's collateral account and its compliance with the reporting requirements of the Act. The State Treasurer shall notify any public depositor that maintains accounts with any bank or savings institution of any irregularities including, but not limited to, the late filing of the required monthly reports or deficiencies in the qualified public depository's eligible collateral at any time. The Treasury Board shall be notified of the sending of any reports of irregularities required herein no later than at its next regularly scheduled meeting.

Statutory Authority                      §2.2-4405 of the Code of Virginia.  
Historical Notes                         Derived from VR640-02 §12; eff. November 18, 1993

## **§130. Compliance requirements.**

Pursuant to the power granted under §2.2-4405 of the Code of Virginia, the Treasury Board may establish criteria for determining the continued eligibility of public depositories to accept public deposits. By formal request, any depository may receive a copy of the approved policy enacted by the Treasury Board. The State Treasurer shall notify public depositors of any policy irregularity regarding their depository.

Statutory Authority                      §2.2-4405 of the Code of Virginia.  
Historical Notes                         Derived from VR640-02 §13; eff. November 18, 1993.  
Cross References                        Required collateral of savings institution to secure public deposits, 1VAC75-20-40.  
Suspension of authority to receive public deposits by Treasury Board, 1VAC75-20-150

## **§140. Criteria for the selection of escrow agents.**

Pursuant to the powers granted to the Treasury Board by §2.2-4402 of the Code of Virginia, the State Treasurer has determined that the selection of an escrow agent or agents is consistent with administration of the Act and the State Treasurer shall define all escrow agent criteria under an agreement labeled "Public Deposit Security Agreement" to be signed and sealed by an authorized officer for the escrow agent, depository and State Treasurer. *(Superceded by action of the Treasury Board. Escrow agent responsibilities are now outlined in a Master Custodial Agreement to be executed by the Treasury Board and each escrow agent.)* A depository may have no more than one escrow agreement in effect at any given time period. Each depository and escrow agent is responsible for providing a written notification and executing new agreements upon their name change. Every qualified public depository shall comply with this section within 60 days of the effective date of this chapter

An escrow agent selected by a qualified public depository for the purpose of holding collateral pledged to the Treasury Board under the Act must meet the following requirements:

1. The escrow agent must sign a "Public Deposit Security Agreement," which shall also be signed by the depository and the State Treasurer, acting on behalf of the Treasury Board. *(Superseded by action of the Treasury Board. The escrow agent must now execute a Master Custodial Agreement with the Treasury Board.)*
2. The escrow agent shall hold in a separate account for the Treasury Board eligible collateral pledged under the provisions of the Act and, if acting as escrow for more than one public depository, the collateral must be accounted for in a manner that will allow separate reporting by account and public depository. The escrow agent shall hold the eligible collateral in a section of the institution which is separate from daily activities performed by that institution such as its trust department and be held accountable by the regulatory requirements of such department.
3. The escrow agent shall be an independent entity in the performance of its duties on behalf of the Treasury Board. The escrow agent may not be the depository itself, its holding company, or any affiliate of the depository.
4. The escrow agent must be able to ascertain whether pledged collateral is eligible in accordance with §60. The escrow agent shall distribute all interest, dividends, or other income for the pledged securities to the depository and shall be payable thereto provided the escrow agent has not received written notice from the Treasury Board that the depository is in a condition of "default or insolvency" as defined in the Act, in which event the escrow agent shall hold such income subject to the order of the Treasury Board.
5. The escrow agent shall allow the Treasury Board to examine pledged securities held as collateral at any time, upon 24-hour notice, during the regular business hours of the escrow agent without cost to the Treasury Board. Upon notification from the Treasury Board of the "default or insolvency" of a depository, the escrow agent shall deliver the pledged securities to the Treasury Board for disposition as provided in the Act, and take a receipt thereof, which shall relieve the escrow agent from any further liability to the depository.
6. The escrow agent shall price securities held as collateral at a current market value no older than one business day from the date of a substitution of collateral and from the close of business on the last banking day of the month for monthly reporting purposes.

7. The escrow agent shall adhere to the reporting requirements as detailed in the "Public Deposit Security Agreement".
8. The escrow agent shall allow substitutions in accordance with §90.
9. The escrow agent shall ensure that withdrawals of collateral will be in accordance with §100.

The State Treasurer, acting on behalf of the Treasury Board, will determine that an escrow agent can meet the criteria established under this section prior to executing the "Public Deposit Security Agreement." The State Treasurer may request information from an escrow agent to substantiate its ability to meet the aforementioned criteria.

In the event an escrow agent violates the requirements of the "Public Deposit Security Agreement," the State Treasurer shall notify the escrow agent and applicable public depositories of the violation and require the escrow agent to comply with all terms of the agreement. The escrow agent must provide the State Treasurer and public depositories a written statement, within 30 days of the notification, outlining how and when the violations will be remedied. This statement must be acceptable to the State Treasurer, who will monitor adherence to it. If the escrow agent fails to provide a statement or adhere to it or violates the agreement three times within a two-year period, the State Treasurer will classify such an escrow agent as "disqualified" as an escrow agent under the provisions of the Act and notify all parties. Qualified public depositories shall have 90 days to select a new escrow agent after such a disqualification.

In the event an escrow agent is classified as "disqualified", the term of suspension shall be for one year from the date of disqualification. After "disqualification," an escrow agent must request from the Treasury Board approval to be reinstated as an eligible escrow agent.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §14; eff. November 18, 1993

#### **§150. Suspension of authority to receive public deposits.**

For failure to comply with the Act or the regulations, the Treasury Board may rescind the authority of a qualified public depository to receive further public deposits in accordance with §130. A depository that continues to hold public deposits after its authority to do so has been rescinded remains fully subject to the provisions of the Act. This includes, without limitation, continuing to meet collateralization and reporting requirements and acting as a qualified public depository for purposes of §§2.2-4403 and 2.2-4404 of the Act.

Statutory Authority	§2.2-4405 of the Code of Virginia.
Historical Notes	Derived from VR640-02 §15; eff. November 18, 1993.

**§160. Exception reports by public depositors.**

Upon receipt of the quarterly public depositor report, as stated in §110, public depositors shall notify the State Treasurer of any unresolved discrepancy between the information provided and the public depositors records.

Statutory Authority  
Historical Notes  
FORMS  
# 1001.

§2.2-4405 of the Code of Virginia.  
Derived from VR640-02 §16; eff. November 18, 1993.  
Public Deposit Security Agreement (and relevant exhibits),  
  
Notice of Election to Require Security for Public Deposit,  
# 1004

