

CASH MANAGEMENT

Section 41-14-1

Designation of state depositories.

The Governor may designate any bank or savings association which is a qualified public depository under Chapter 14A of this title as a state depository as provided in this article.

(Code 1907, §641; Code 1923, §891; Code 1940, T. 55, §379; Act 2000-748, p. 1669, §2.)

Section 41-14-2

Application for designation action upon default or insolvency.

Before any bank or savings association shall be designated as a state depository, it shall be designated as a qualified public depository under Chapter 14A of this title, and it shall file with the State Treasurer an application in writing to be designated as a state depository under the terms of this article.

Such qualified public depository shall accompany such application with a statement, verified by the affidavit of its president or other executive head, setting forth the amount of its paid-in capital stock, the amount of its surplus and undivided profits, its principal place of business, the length of time it has been engaged in business and its assets and liabilities at the time of making application.

In the event of the default or insolvency, as defined in Section 41-14A-2, of any state depository, the State Treasurer shall take prompt action to enforce the rights of the state and the State Treasurer as a public depositor under Chapter 14A of this title.

(Code 1907, §642; Code 1923, §892; Acts 1939, No. 195, p. 349; Code 1940, T. 55, §380; Acts 1943, No. 14, p. 17, §1; Acts 1947, No. 411, p. 301, §1; Acts 1990, No. 90-638, p. 1172, §1; Act 2000-748, p. 1669, §2.)

Section 41-14-3

Certification by Treasurer; order by Governor.

Upon the filing of such application with the State Treasurer, the Treasurer shall certify to the Governor the fact of such application and the sworn statement accompanying the same, and thereupon the Governor may designate the applicant as a state depository.

In the event the application is granted by the Governor, he shall promulgate an order declaring that the applicant is a state depository until its authority is revoked.

(Code 1907, §643; Code 1923, §893; Code 1940, T. 55, §381; Acts 1943, No. 14, p. 17; Acts 1947, No. 411, p. 301, §2; Act 2000-748, p. 1669, §2.)

Section 41-14-4

Transfer or removal of state funds to or from state depository.

The state may pay any state depository for the transfer or removal of funds to or from the state depository, item handling charges, and for any other services performed by the state depository. Payment for transfers, removals, item handling charges, and other services performed by the state depository may be paid by credit allowances for investable balances; except where the service performed is for the benefit of a department of state government other than the State Treasury, then payment of the charges shall be from funds appropriated for the applicable department. When any funds or moneys are transmitted or transferred by any state depository upon the order of the Treasurer, the same shall be and continue at the risk of the depository until it shall have reached the destination contemplated by the order.

(Code 1907, §652; Code 1923, §902; Code 1940, T. 55, §390; Acts 1996, No. 96-764, p. 1349, §1.)

Section 41-14-5

State or county officers may deposit state funds in depositories; maximum amount of state funds which depositories may receive, etc.

Any state or county officer in this state having in his possession or under his control funds or moneys belonging to the state may place the same in a state depository to the credit of the State Treasurer and subject to the check or order of the Treasurer. No state depository shall receive or have at any time an amount of paid money or funds in excess of the face value of bonds and other securities deposited or for which receipts have been deposited by it with the Treasurer.

(Code 1907, §644; Code 1923, §894; Code 1940, T. 55, §382; Acts 1943, No. 14, p. 17; Acts 1947, No. 411, p. 301, §3; Acts 1949, No. 223, p. 332.)

Section 41-14-7

Depositories to give receipts to officers making deposits; disposition of copies of receipts, etc.

Each state depository shall give to the officer placing funds or moneys therein to the credit of the Treasurer a receipt therefor in duplicate, and such officers shall immediately mail to the Department of Finance a duplicate of the said receipt. The Department of Finance shall, upon receiving the same, pass the amount therein mentioned to the credit of said officer and transmit the duplicate receipt to the Treasurer, who shall mail to the said officer a receipt for the same.

(Code 1907, §646; Code 1923, §896; Code 1940, T. 55, §384.)

Section 41-14-8

Depositaries to report daily deposits to Treasurer; monthly statements of balance in depositaries to be made to Treasurer, Governor, etc.

Each state depository shall report in writing at the close of each business day to the Treasurer the total amount of all sums placed therein for his account on that day, by whom made and for what purpose made.

At the end of each calendar month, a statement of the balance to the credit of the treasurer in such depository shall be made by it to the Governor, Department of Finance and Treasurer.

(Code 1907, §647; Code 1923, §897; Code 1940, T. 55, §385.)

Section 41-14-9

Sale of bonds, etc., deposited as security upon failure of depository to pay check, etc., of treasurer or account for state funds generally.

Repealed effective January 1, 2001, by Act 2000-748, §3.

(Code 1907, §648; Code 1923, §898; Code 1940, T. 55, §386; Acts 1947, No. 411, p. 301, §4.)

Section 41-14-10

Sale passes title to bonds to purchaser; registration of bonds in name of purchaser.

THIS SECTION WAS REPEALED BY ACT 2000-748, 2000 REGULAR SESSION, EFFECTIVE JANUARY 1, 2001.

(Code 1907, §649; Code 1923, §899; Code 1940, T. 55, §387.)

Section 41-14-11

Notice of intent to surrender designation.

Before any voluntary surrender of its designation as a state depository, any bank or savings association shall give at least 30 days' notice to the Governor, Department of Finance and Treasurer of its purpose to cease acting as a state depository.

(Code 1907, §651; Code 1923, §901; Code 1940, T. 55, §389; Act 2000-748, p. 1669, §2.)

Section 41-14-12

Withdrawal of bonds, securities, etc., by bank or trust company ceasing, etc., to act as state depository.

THIS SECTION WAS REPEALED BY ACT 2000-748, 2000 REGULAR SESSION, EFFECTIVE JANUARY 1, 2001.

(Code 1907, §650; Code 1923, §900; Code 1940, T. 55, §388; Acts 1947, No. 411, p. 301, §5.)

Section 41-14-13

Deposit of state funds in depositaries by state or county officers not required by article.

Nothing in this article shall be construed as requiring county or state officers to place state funds in state depositaries, and they may pay such funds into the State Treasury as now provided by law.

(Code 1907, §654; Code 1923, §904; Code 1940, T. 55, §392.)

Section 41-14-14

Treasurer may deposit funds received from state or county officers in state depositaries.

The Treasurer, by and with the approval of the Governor, may place all funds or any part thereof paid to him by county or state officers or any other funds that he may have at any time on hand in any one or more of the state depositaries under the same rules and regulations governing other deposits made under this article.

(Code 1907, §655; Code 1923, §905; Code 1940, T. 55, §393.)

Section 41-14-15

Governor, Treasurer, etc., to establish regulations and collection methods for transaction of business with state depositaries.

The Governor, the Department of Finance and the Treasurer are authorized to establish such regulations and collection methods not inconsistent with the provisions of this article as they may deem necessary for the convenient transaction of business with state depositaries.

(Code 1907, §653; Code 1923, §903; Code 1940, T. 55, §391.)

Section 41-14-16

Penalties for violations of provisions of article.

Any state or county officer, or state depository or agent thereof, who shall violate any of the provisions of this article shall be guilty of a misdemeanor and may, on conviction, be fined not more than \$2,500.00; and, in addition to the fine, such state or county officer may be removed from office.

(Code 1907, §7453; Code 1923, §5045; Code 1940, T. 41, §220.)

Section 41-14-30

Deposit of funds in qualified public depositories; types of investments.

(a) The State Treasurer may deposit the money of the state in any available bank product in any bank or savings association that is a qualified public depository under Chapter 14A of this title and that has been designated as a state depository according to law, so long as the bank or savings association agrees to pay interest on the money.

(b) The State Treasurer may invest so much of the funds as he or she may deem appropriate in bonds, notes, or treasury bills of the United States or in obligations of any agency or instrumentality of the United States of America, including but not limited to the Federal Land Bank, Federal Home Loan Bank, Federal National Mortgage Association, Federal Intermediate Credit Bank, banks for cooperatives, Resolution Trust Corporation, or any of its other agencies, or in any other obligations guaranteed as to principal and interest by the United States, or in money market mutual funds which invest solely in securities otherwise authorized in this section.

(c) Funds may also be invested in such obligations of the United States or its agencies under a repurchase agreement for a shorter time than the maturity date of the security itself.

(d) Funds may also be invested in commercial paper with the highest quality credit rating at the time of purchase and in banker's acceptances.

(Acts 1967, No. 3, p. 336, §1; Acts 1977, 1st Ex. Sess., No. 45, p. 1460; Acts 1992, No. 92-169, p. 279, §1; Act 2000-748, p. 1669, §2; Act 2012-208, p. 348, §1.)

Section 41-14-31

Maintenance of money for current operational expenses; apportionment of demand deposits.

As much money as may be needed for current operational purposes of the state government, as determined by the State Treasurer in accordance with procedures prescribed by Section 41-14-32 and with the approval of the Governor, shall be maintained at all times in the State Treasury in cash or in demand deposits with state depository banks.

The State Treasurer shall apportion such demand deposits among state depositories, giving preference to banks that are located in Alabama and giving due consideration to the activities of the various banking accounts maintained therein, the reasonable value of the banking services rendered or to be rendered the state by depository banks, and giving first priority to the value and importance of such deposits to the economy of the communities and the various areas of the state to be affected thereby, as indicated by the loan to deposit ratio.

(Acts 1967, No. 3, p. 336, §2; Acts 1971, 1st Ex. Sess., No. 62, p. 99; Act 2009-160, p. 320, §1.)

Section 41-14-33

Contracts covering time deposits, open account; early withdrawal; apportionment; payment and rate of interest.

(a) The State Treasurer is authorized to enter into contracts with the state depositories for the deposit of state funds in time deposits, open account, having maturities of 91 days, six months, or one year; provided that any such contract for a time deposit, open account, having a maturity of 91 days shall provide for early withdrawal of funds upon written notice delivered at least 14 days (or the minimum period of time as is prescribed by applicable banking regulation then in effect) prior to the date of withdrawal.

(b) The State Treasurer shall apportion the time deposits, open account, among state depositories, giving preference to banks that are located in Alabama and giving due consideration to the activities of the various banking accounts maintained therein, the reasonable value of the banking services rendered or to be rendered the state by depository banks, and giving first priority to the value and importance of such deposits to the economy of the communities and the various areas of the state to be affected thereby, as indicated by the loan to deposit ratio.

(c) The rate of interest to be paid on each time deposit, open account, of 91 days, six months, and one year maturity shall correspond to the rate borne by United States Treasury obligations of comparable maturity and shall be calculated as the average auction rate for United States Treasury Bills with maturities of 91 days and 26 weeks, respectively, as established at the four most recent auctions held immediately prior to the execution of the contract for such time deposit, open account, or where the maturity of the time deposit, open account, is one year, the weekly average one-year constant maturity yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week immediately preceding the execution of the contract.

(d) The interest shall be payable in accordance with Section 41-14-34.

(Acts 1967, No. 3, p. 336, §4; Acts 1971, 1st Ex. Sess., No. 62, p. 99; Acts 1975, 1st Ex. Sess., No. 1, §2; Acts 1989, No. 89-868, p. 1743; Act 2004-486, p. 904, §1; Act 2009-160, p. 320, §1.)

Section 41-14-34

How interest on time deposits, open account, calculated and paid; emergency withdrawal of funds on time deposit, open account.

(a) Interest shall be calculated on the basis of the contracts existing with respect to time deposits, open account, and shall be payable monthly to the State Treasurer and by that officer paid into the State Treasury to the credit of the General Fund of the state.

(b) In the event of an emergency, the Treasurer is authorized to comply with applicable banking regulations in order to receive all or any portion of the funds placed on time deposits, open

account, on shorter notice than the agreement provides and to forfeit such amount of accrued and unpaid interest as may be required by such regulations.

(Acts 1967, No. 3, p. 336, §5; Acts 1983, 1st Ex. Sess., No. 83-80, p. 86.)

Section 41-14-35

Security for deposits or accounts.

(a) All public deposits, as defined in Chapter 14A, of the state shall be secured to the extent and in the manner provided in Chapter 14A by any combination of the following securities and instruments, which may be issued and held in either definitive or book-entry form: Direct obligations of the State of Alabama or any other state of the United States; obligations of the United States government or that are fully guaranteed as to payment of principal and interest by the United States; obligations issued or guaranteed by any agency or instrumentality of the United States, including, without limitation, the Government National Mortgage Association or any successor thereto, any Federal Farm Credit Bank or any successor thereto, the Federal Housing Finance Board or any successor thereto, the Federal Home Loan Bank System or any successor thereto, or any Federal Home Loan Bank or any successor thereto; debt obligations, including, without limitation, participation certificates of the Federal Home Loan Mortgage Corporation or any successor thereto or of the Federal National Mortgage Corporation or any successor thereto; subject to the approval of the State Treasurer and compliance with all related requirements, conditions, and procedures established by the State Treasurer or the Board of Directors of the SAFE Program established under Chapter 14A, irrevocable, unconditional letters of credit issued by any Federal Home Loan Bank on behalf of a qualified public depository and naming the State Treasurer as beneficiary; any direct obligations of any agency, political subdivision, or instrumentality of the State of Alabama, including, without limitation, any direct obligation of any county or municipality, which carries the full faith and credit of the issuing entity; general obligations of any county, municipality, agency, political subdivision, or instrumentality of any of the various other states of the United States, which have a rating of "A2" or better by Moody's Investors Service (or any successor to that firm) or of "A" or better by Standard & Poor's (or any successor to that firm) or Fitch Ratings (or any successor to that firm); any revenue obligation issued by the State of Alabama or any agency, political subdivision, instrumentality, county, municipality, or district thereof, or by any authority, board, or public corporation of the State of Alabama or any such agency, political subdivision, instrumentality, county, municipality, or district, payable from designated taxes or from revenues or other limited or special sources of funds derived from any public facility or project which either (1) has a current rating of "A2" or better by Moody's Investors Service (or any successor to that firm) or of "A" or better by Standard & Poor's (or any successor to that firm) or Fitch Ratings (or any successor to that firm), or (2) has an average annual debt service coverage of at least two times; and mortgage-backed securities, collateralized mortgage obligations, and asset-backed securities (excluding, however, mortgage-backed securities, collateralized mortgage obligations, and asset-backed securities constituting inverse floaters, interest-only strips, principal-only strips, or similar leveraged derivative instruments), issued by any public entity or organization, quasi-public entity or organization, or private entity or organization, provided that, except in the case of mortgage-backed securities, collateralized mortgage obligations, and asset-backed securities issued by an agency or instrumentality of the United States or any federally chartered or sponsored quasi-public entity or organization (including the Federal National Mortgage Corporation or the Federal Home Loan Mortgage Corporation), such securities or obligations

shall have a current rating of "Aaa" by Moody's Investors Service (or any successor to that firm) or of "AAA" by Standard & Poor's (or any successor to that firm) or Fitch Ratings (or any successor to that firm). All securities and other collateral shall be held in accordance with the requirements of Chapter 14A of this title, provided, however, any provisions of Chapter 14A notwithstanding, any Federal Home Loan Bank letters of credit accepted by the State Treasurer as collateral shall be held by the State Treasurer rather than a third-party custodian and may be drawn by the State Treasurer when necessary to satisfy losses to public depositors under Chapter 14A.

(b) No security shall be required for the amount of any deposit or account to the extent said deposit or account is insured by the Federal Deposit Insurance Corporation or any successor federal insurance corporation or agency.

(c) In accordance with subdivision (9) Section 41-14A-2, the types of securities and instruments that are eligible under or pursuant to this section to secure state money deposited in state depositories shall be eligible collateral for purposes of Chapter 14A and all qualified public depositories holding public deposits of any covered public entities or covered public officials, as such terms are defined in Chapter 14A, shall be required to pledge collateral, to the extent and in the manner specified in Chapter 14A, that complies with the requirements of this section. Notwithstanding the foregoing, the State Treasurer is authorized to disapprove any security or instrument offered or pledged as collateral under this section or under any provisions of Chapter 14A, including, without limitation, in any circumstance in which the State Treasurer determines that the security or instrument is not sufficiently marketable.

(Acts 1967, No. 3, p. 336, §6; Acts 1990, No. 90-638, p. 1172, §2; Act 2000-748, p. 1669, §2; Act 2003-305, p. 723, §1.)

Section 41-14-36

Receipt, etc., of fee, compensation, etc., for placement, etc., of state moneys in time deposits, open account, demand deposits, etc.

Any person who knowingly demands or receives any fee, compensation or reward or who demands or accepts directly or indirectly as payment or gift or otherwise any sum of money or other thing of value as an inducement or in return for the placement of any funds or for assistance either directly or indirectly in securing the placement of any moneys of the State of Alabama in time deposits, open account, demand accounts or otherwise shall be guilty of a felony and, upon conviction, shall be imprisoned for not more than three years or fined not more than \$3,000.00 or both; and, in the event the person convicted is an officer, agent or employee of the State of Alabama, he shall be dismissed from office or discharged from employment.

(Acts 1967, No. 3, p. 336, §7.)

Section 41-14-37

Section 36-17-18 not affected by provisions of article.

Nothing contained in this article shall be construed to modify, amend or repeal the provisions of Section 36-17-18, as now existing or hereafter amended, relating to investment in direct obligations of the United States of America registered in the name of the State Treasurer.

(Acts 1967, No. 3, p. 336, §8; Acts 1971, 1st Ex. Sess., No. 62, p. 99; Acts 1975, 1st Ex. Sess., No. 1, §3.)

Section 41-14-38

Applicability of provisions of article.

The provisions of this article shall not apply to funds subject to withdrawal by a state official, state department or state agency other than the State Treasurer.

(Acts 1967, No. 3, p. 336, §9.)

Section 41-14-50

Short title; legislative intent.

This article shall be known as the Linked Deposit Program of 2007. The purpose of this article is to enhance the George Wallace, Jr., Plan for Linked Deposits of 1988 and further stimulate growth and development in agricultural and small business operations, and to provide disaster relief funds to citizens, by authorizing the State Treasurer to invest a portion of the portfolio of the state with participating eligible lending institutions in a below market rate deposit which links the deposit to a reduced rate loan to eligible borrowers.

(Act 2007-397, p. 790, §1.)

Section 41-14-51

Definitions.

When used in this article, the following words and phrases have the following meanings:

(1) AGRICULTURE and AGRICULTURAL. Those activities, land, buildings, and machinery relating to any of the following:

a. The raising, harvesting, rotation, selling, or marketing of crops or products of the soil planted, served, or saved including cereals, vegetables, fruits, fibers, sugars, resins and pitches, grasses, grains, seeds, nuts, bulbs, feed, forage, wood and wood by-products, nursery stock, including trees and shrubs or other plants grown or kept for propagation, distribution, or sale, vegetable oils, flowers, silage, pasturage, and other products and produce thereof.

b. The feeding, breeding, management, raising, marketing, sale, or production of livestock of all types, poultry, insects, fish, and other aquatic animals for meat, leather, eggs, fur, milk, bone, liquids, and other products and produce thereof.

c. Recreational or educational activities directly involving or relating to the production of farm products of the types described in paragraphs a. and b., fishing or the taking, capture, or capture and release of wildlife, including wildlife animal feeding, husbandry, and conservation activities, as well as fish and game management, culling, hunting, and related wildlife environmental preservation activities.

(2) AGRICULTURAL BORROWER. Any individual, partnership, cooperative, corporation, or other entity engaged in agriculture or agricultural activities, or both, and which meets all of the following criteria:

a. Derives at least 60 percent of gross income from agriculture or agricultural activities.

b. Is an Alabama resident.

c. Is headquartered and operating in Alabama.

d. Does not currently owe any defaulted taxes to the State of Alabama or any political subdivision.

(3) CONSTANT MATURITY TREASURY RATE (CMT). Yields interpolated by the United States Treasury from the daily yield curve. This curve, which relates the yield on a security to its time to maturity is based on the closing market bid yields on actively traded U.S. Treasury securities in the over-the-counter market. These market yields are calculated from composites of quotations obtained by the Federal Reserve Bank of New York.

(4) ELIGIBLE BORROWER. An agricultural, emergency, or small business borrower that meets the definition and criteria to participate in the program.

(5) ELIGIBLE LENDING INSTITUTION. Any bank or financial institution designated as a state depository, as provided under Section 41-14-3, and amendments thereto, that agrees to participate in the program and completes a linked deposit participation agreement.

(6) EMERGENCY BORROWER. Any individual, business, organization, or local government which has suffered loss, and which is located in areas in which property loss has occurred due to fire, flood, tornado, hurricane, or other act of God, or other natural or man-made disaster.

(7) LINKED DEPOSIT. Deposit of state funds made by the Treasurer in support of loans made by eligible lending institutions to eligible borrowers.

(8) LINKED DEPOSIT LOAN. Reduced rate loan made to an eligible borrower by an eligible lending institution that received a below market rate linked deposit for the same term.

(9) LINKED DEPOSIT PARTICIPATION AGREEMENT. The written agreement between the Treasurer and the eligible lending institution that specifies duties and responsibilities of each party consistent with this article and the program.

(10) PROGRAM. The linked deposit program, created in Section 41-14-52, and administered by the Treasurer whereby an investment of state funds is placed with an eligible lending institution which in turn funds a loan in the full amount of the deposit to an eligible borrower.

(11) SMALL BUSINESS BORROWER. Any individual, proprietor, corporation, partnership, or other entity which meets all of the following criteria:

- a. Is headquartered in Alabama.
- b. Maintains operations and transacts business in Alabama.
- c. Employs fewer than 150 full-time and part-time employees.
- d. Is organized for profit.
- e. Does not currently owe any defaulted taxes to the State of Alabama or any political subdivision.

(12) TREASURER. The Treasurer of the State of Alabama, or the designee of the Treasurer.

(Act 2007-397, p. 790, §1.)

Section 41-14-52

Creation and administration of program.

(a) The Linked Deposit Program of 2007 is created and the Treasurer shall administer the program.

(b) The Treasurer shall establish procedures, guidelines, forms, and other requirements to carry out this article. The Treasurer may disseminate program information to interested parties.

(c) The maximum amount that the Treasurer may invest in the program shall not exceed 10 percent of all monies available to the Treasurer for investment as calculated by the average of the quarter-end amount for the previous four quarters. The amount invested in the program is at the total discretion of the Treasurer.

(d) The Treasurer shall provide an annual report outlining the status of the program and publish the report on the Treasury website for the benefit of the Governor, Legislature, and general public.

(Act 2007-397, p. 790, §1.)

Section 41-14-53

Applications for loans; linked deposit package.

(a) An eligible lending institution shall accept and review applications for linked deposit loans from eligible borrowers. The lending institution shall apply all usual lending standards to determine the credit worthiness of eligible borrowers.

(b) The eligible lending institution shall forward to the Treasurer a linked deposit package, in the form and manner prescribed by the Treasurer.

(Act 2007-397, p. 790, §1.)

Section 41-14-54

Terms of linked deposits.

(a) Only one linked deposit shall be made and be outstanding at any one time to any one eligible borrower.

(b) The linked deposit amount shall not exceed seven hundred fifty thousand dollars (\$750,000) per eligible borrower.

(c) The initial linked deposit term shall be two years.

(d) The linked deposit may be renewed for three additional two-year terms at the option of the Treasurer for a total duration of eight years.

(e) The linked deposit may not be made in support of a loan for the purpose of construction, leasing, rental, real estate investment, other than for owner-occupied business premises of the borrower, or speculation.

(f) The linked deposit shall be returned to the Treasurer at the earliest of (1) repayment of the linked deposit loan; or (2) expiration of the linked deposit.

(g) All linked deposit funds and interest shall be electronically disbursed and received through the State Treasury.

(h) Linked deposit interest shall be paid to the Treasurer monthly.

(Act 2007-397, p. 790, §1.)

Section 41-14-55

Loan rates.

(a) The linked deposit fixed rate paid by the eligible lending institution shall be two percent below the two-year constant maturity treasury rate.

(b) The minimum linked deposit rate shall be one percent.

(c) The linked deposit loan rate to the eligible borrower shall be set by the eligible lending institution at a fixed rate not more than four percent greater than the interest rate on the linked deposit as provided in subsection (a).

(Act 2007-397, p. 790, §1.)

Section 41-14-56

Liability of state and Treasurer; delays in payments.

(a) Neither the state nor the Treasurer shall be liable to any eligible lending institution in any manner for payment of the principal or interest on the linked deposit loan to an eligible borrower.

(b) Any delay in payments or any default on the part of the eligible borrower does not in any manner affect the linked deposit participation agreement between the eligible lending institution and the Treasurer.

(Act 2007-397, p. 790, §1.)