

CHAPTER 34

GOVERNMENTAL UNIT DEPOSIT PROTECTION

Authority

N.J.S.A. 17:1-8, 8.1 and 15, and 17:9-41 et seq.; and P.L. 2009, c. 326.

Source and Effective Date

R.2010 d.253, effective November 1, 2010.
See: 42 N.J.R. 1447(a), 42 N.J.R. 2605(a).

Chapter Expiration Date

Chapter 34, Governmental Unit Deposit Protection, expires on November 1, 2015.

Chapter Historical Note

Chapter 34, Governmental Unit Deposit Protection, was adopted as new rules by R.2010 d.253, effective November 1, 2010. See: Source and Effective Date.

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SUBCHAPTER 1. GOVERNMENTAL UNIT DEPOSIT PROTECTION

3:34-1.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:9-41 et seq. regarding collateral requirements for depositories that accept the deposits of local New Jersey governmental unit funds.

(b) This subchapter shall apply to all depositories that accept the deposits of local New Jersey governmental unit funds.

3:34-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” or “GUDPA” means the Governmental Unit Deposit Protection Act, N.J.S.A. 17:9-41 et seq.

“Adequately capitalized” means, with respect to a public depository, “adequately capitalized” as the term is defined in N.J.S.A. 17:9-41.

“Association” means any State or Federally chartered savings and loan association.

“Call report” means the quarterly report on a depository’s overall condition made to the appropriate Federal banking agency as defined by subsections (q) and (r) of section 3 of the Federal Deposit Insurance Act, Pub. L. 81-797 (12 U.S.C. § 1813(q) and (r)).

“Capital funds” means:

1. In the case of a State bank or national bank or capital stock savings bank, the aggregate of the capital stock, surplus and undivided profits of the bank or savings bank;
2. In the case of a mutual savings bank, the aggregate of the capital deposits, if any, and the surplus of the savings bank; and
3. In the case of an association, the aggregate of all reserves required by any law or regulation, and the undivided profits, if any, of the association.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Critically undercapitalized” means, with respect to a public depository, “critically undercapitalized” as the term is defined in N.J.S.A. 17:9-41.

“Custodial depository” means the depositories specified in N.J.S.A. 17:9-44c.

“Department” means the New Jersey Department of Banking and Insurance.

“Eligible collateral” means:

1. Obligations of any of the following:
 - i. The United States;
 - ii. Any agency or instrumentality of the United States, including, but not limited to, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Small Business Administration;
 - iii. The State of New Jersey or any of its political subdivisions; or
 - iv. Any other governmental unit;

2. Obligations guaranteed or insured by any of the following, to the extent of that insurance or guaranty:

- i. The United States;
- ii. Any agency or instrumentality of the United States, including, but not limited to, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Small Business Administration; or
- iii. The State of New Jersey or any of its political subdivisions;

3. Obligations now or hereafter authorized by law as security for public deposits;

4. Obligations in which the State, political subdivisions of the State, their officers, boards, commissions, departments and agencies may invest pursuant to an express authorization under any law authorizing the issuance of those obligations;

5. Obligations, letters of credit, or other securities or evidence of indebtedness constituting the direct and general obligation of a Federal Home Loan Bank or Federal Reserve Bank; or

6. Any other obligations as may be approved by the Commissioner by regulation or by specific approval.

“Governmental unit” means any county, municipality, school district or any public body corporate and politic created or established under any law of this State by or on behalf of any one or more counties or municipalities, or any board, commission, department or agency of any of the foregoing having custody of funds.

“Public depository” means a State or Federally chartered bank, savings bank or an association located in this State or a State or Federally chartered bank, savings bank or an association located in another state with a branch office in this State, the deposits of which are insured by the Federal Deposit Insurance Corporation and which receives or holds public funds on deposit.

“Public funds” means the funds of any governmental unit, but does not include deposits held by the State of New Jersey Cash Management Fund.

“Significantly undercapitalized” means, with respect to a public depository, “significantly undercapitalized” as the term is defined in N.J.S.A. 17:9-41.

“Undercapitalized” means, with respect to a public depository, “undercapitalized” as the term is defined in N.J.S.A. 17:9-41.

“Uninsured” means not insured by the Federal Deposit Insurance Corporation (FDIC) or by any other agency of the

United States which insures deposits made in public depositories.

“Valuation date” means March 31, June 30, September 30, and December 31.

“Well capitalized” means, with respect to a public depository, “well capitalized” as the term is defined in N.J.S.A. 17:9-41.

3:34-1.3 General requirement

No deposit from a governmental unit may be received and held by any public depository unless the public depository secures such deposit in accordance with the Governmental Unit Deposit Protection Act, N.J.S.A. 17:9-41 et seq., and this subchapter.

3:34-1.4 Required reports

(a) A public depository shall file electronically with the Department a report as set out on the Department’s website at www.state.nj.us/dobi/index.html. The report is due on a quarterly basis and is to be filed on or before the due date for the filing of a call report. The report shall include the following information:

1. The name and address of the reporting institution;
2. The date of report filing and the valuation date of the report;
3. The name and title of the designated GUDPA officer or contact person and that person’s telephone number and e-mail address;
4. A secondary contact name and title, with telephone number and e-mail address;
5. The total capital funds;
6. New Jersey capital funds allocated pursuant to N.J.A.C. 3:34-1.6;
7. Seventy five percent of New Jersey capital funds;
8. The total average balance of New Jersey public funds during the three-month period ending prior to the current valuation date;
9. Whether a daily or four-day average was used;
10. The New Jersey public funds covered by insurance;
11. The average New Jersey public funds on deposit in excess of insurance;
12. The total average balance of New Jersey public funds during the 15-day period preceding the current valuation date;
13. The collateral requirement, and the total market value of collateral pledged;