

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No.: 892 Department or Agency: Office of State Treasurer
Rule No. 892-X-1-.04
Rule Title: Collateral Pledging Levels
 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Daria Story
Date 7.20.11

(DATE FILED)
(STAMP)

Office of State Treasurer
SAFE Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Office of State Treasurer

RULE NO. & TITLE:

892-X-1-.01 Purpose
892-x-1-.03 Designation as a Qualified Public
Depository
892-X-1-.04 Collateral Pledging Levels
892-X-1-.05 Maintaining Active Status
892-X-1-.06 Valuation of Collateral
892-X-1-.07 Custodians
892-X-1-.08 Requirements of QPDs
892-X-1-.09 Requirements of Public Depositors
892-X-1-.13 Grounds for Involuntary Withdrawal,
Suspension, or Imposition of
Administrative Penalties
892-X-1-.14 Administrative Penalties - QPD
892-X-1-.15 Involuntary Withdrawal or Suspension
892-X-1-.16 Voluntary Withdrawal
892-X-1-.18 Reports by the Treasurer
892-X-1-.19 Use of Letters of Credit as Eligible
Collateral

INTENDED ACTION:

The Office of State Treasurer, on behalf of the SAFE Board of Directors, proposes to amend certain of the existing Rules for the SAFE Program found in Title 41, Chapter 14A, Code of Alabama 1975, as amended.

To amend Rule No. 892-X-1-.01 Purpose
To amend Rule No. 892-x-1-.03 Designation as a Qualified
Public Depository
To amend Rule No. 892-X-1-.04 Collateral Pledging Levels
To amend Rule No. 892-X-1-.05 Maintaining Active Status
To amend Rule No. 892-X-1-.06 Valuation of Collateral
To amend Rule No. 892-X-1-.07 Custodians
To amend Rule No. 892-X-1-.08 Requirements of QPDs
To amend Rule No. 892-X-1-.09 Requirements of Public
Depositors

To amend Rule No. 892-X-1-.13 Grounds for Involuntary
Withdrawal, Suspension, or Imposition of Administrative
Penalties
To amend Rule No. 892-X-1-.14 Administrative Penalties - QPD
To amend Rule No. 892-X-1-.15 Involuntary Withdrawal or
Suspension
To amend Rule No. 892-X-1-.16 Voluntary Withdrawal
To amend Rule No. 892-X-1-.18 Reports by the Treasurer
To amend Rule No. 892-X-1-.19 Use of Letters of Credit as
Eligible Collateral

SUBSTANCE OF PROPOSED ACTION:

To amend Rule No. 892-X-1-.01 Purpose to remove a reference to the Appendix that was repealed effective September 24, 2008.

To amend Rule No. 892-x-1-.03 Designation as a Qualified Public Depository to remove a reference to the Appendix that was repealed effective September 24, 2008.

To amend Rule No. 892-X-1-.04 Collateral Pledging Levels to clarify evaluations may be proprietary.

To amend Rule No. 892-X-1-.05 Maintaining Active Status to remove listing of required forms.

To amend Rule No. 892-X-1-.06 Valuation of Collateral to clarify Rule title, and to require QPD's to provide annual certification of non-rated obligations.

To amend Rule No. 892-X-1-.07 Custodians to include trust company criteria, require listing of securities ratings, delete redundant information, and condense violation and fine procedures.

To amend Rule No. 892-X-1-.08 Requirements of QPDs to clarify reporting requirements and to notify Treasurer of any confidential information.

To amend Rule No. 892-X-1-.09 Requirements of Public Depositors to shorten timeframe to submit claim form from 120 days to 90 days.

To amend Rule No. 892-X-1-.13 Grounds for Involuntary Withdrawal, Suspension, or Imposition of Administrative Penalties to clarify timeframe to pledge collateral and to receive Treasurer approval for decrease in LOC only.

To amend Rule No. 892-X-1-.14 Administrative Penalties - QPD to delete redundant information and to condense violation and fine procedures.

To amend Rule No. 892-X-1-.15 Involuntary Withdrawal or Suspension to provide that the withdrawing QPD will be listed on the website.

To amend Rule No. 892-X-1-.16 Voluntary Withdrawal to clarify withdrawal procedures.

To amend Rule No. 892-X-1-.18 Reports by the Treasurer to rename Rule title for clarification and to clarify confidential information.

To amend Rule No. 892-X-1-.19 Use of Letters of Credit as Eligible Collateral to clarify use of LOC, to condense requirements, and to remove requirement of a LOC Agreement.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Interested persons may submit oral or written comments by personal appearance, mail, facsimile or electronic mail received not later than 5:00 PM on Tuesday, September 6, 2011 to:

Office of State Treasurer, State Capitol Building S-106, 600 Dexter Avenue, Montgomery, AL 36104; telephone 334-242-7501; facsimile 334-353-4080; or email daria.story@treasury.alabama.gov.

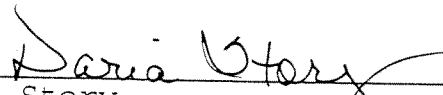
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

A hearing on this proposal and comments received thereto will be held on Tuesday, September 6, 2011 at 2:00 PM, CST, at the following place:

Office of State Treasurer, State Capitol Building, Room S-106, 600 Dexter Avenue, Montgomery, AL 36104.

CONTACT PERSON AT AGENCY:

Daria Story, Assistant State Treasurer, 334-242-7506, daria.story@treasury.alabama.gov



Daria Story
Assistant State Treasurer

892-X-1-. 04 Collateral Pledging Levels.

(1) The financial condition of each QPD shall be reviewed to determine Collateral Pledging Levels for entry and continued participation in the SAFE Program. The review shall be for the purposes of the SAFE Program only and shall be used exclusively for the Program. The review shall include:

(a) An independent financial condition evaluation from a nationally recognized service, published quarterly. Such financial evaluation may be proprietary and not released as public information;

(b) Other pertinent information relating to the overall financial condition of the QPD.

(2) Each QPD shall pledge to the Treasurer Eligible Collateral equal to or in excess of its Required Collateral. One of the following Collateral Pledging Levels shall be used in determining Required Collateral:

(a) 85 percent of the net average daily ledger balance of public deposits if the QPD maintains an independent financial evaluation of 70 or more.

(b) 95 percent of the net average daily ledger balance of public deposits if the QPD maintains an independent financial evaluation of 20 – 69.

(c) 105 percent of the net average daily ledger balance of public deposits if the QPD maintains an independent financial evaluation of 10-19.

(d) 125 percent of the net average daily ledger balance of public deposits if the QPD maintains an independent financial evaluation below 10.

(e) 150 percent of an established maximum amount of public deposits may be required if a QPD experiences significant financial deterioration or at Board discretion.

(f) 100 percent of the net average daily ledger balance of public deposits in the case of a newly established bank. This pledging level will be updated upon receipt of first financial evaluation.

(g) 5 percentage points will be added to any of the above levels if the QPD exhibits one or both of the following conditions:

1. Net average daily ledger balance of public deposits exceeds Tier 1 capital.

2. Net average monthly ledger balance of public deposits comprises 20% or more of total public deposits held in all QPD's.

(h) A QPD may be required to pledge at a higher level for repeated violations of the SAFE Program provisions and rules upon the discretion of the Board.

(i) Minimum Required Collateral of \$100,000.

(3) If a QPD maintains an independent financial evaluation below 10, the following actions may be deemed appropriate:

(a) Additional monthly reporting, including financial information and a listing of all public deposits;

(b) Collateral safekept in a Treasurer-Designated Custodian.

(4) The SAFE Board shall review, monitor, and modify these guidelines as necessary to meet the changing needs of the SAFE Program. The Treasurer shall notify each QPD of any changes as they occur.

Author: Daria Story, SAFE Division, Office of State Treasurer

Statutory Authority: Sections 41-14A-5 and 41-14A-6, Code of Alabama 1975, as amended.

History: **New Rule:** Filed March, 28, 2001; effective May 2, 2001.

Amended: Filed September 19, 2002; effective October 24, 2002. **Amended:**

Filed December 20, 2004; effective January 24, 2005. **Amended:** Filed August 20, 2008; effective September 24, 2008.

Amended: Filed July 20, 2011