

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No.: 892 Department or Agency: Office of State Treasurer  
Rule No. 892-X-1-.14  
Rule Title: Administrative Penalties - QPD  
       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	<u>Purpose</u>
892-x-1-.03	<u>Designation as a Qualified Public Depository</u>
892-X-1-.04	<u>Collateral Pledging Levels</u>
892-X-1-.05	<u>Maintaining Active Status</u>
892-X-1-.06	<u>Valuation of Collateral</u>
892-X-1-.07	<u>Custodians</u>
892-X-1-.08	<u>Requirements of QPDs</u>
892-X-1-.09	<u>Requirements of Public Depositors</u>
892-X-1-.13	<u>Grounds for Involuntary Withdrawal, Suspension, or Imposition of Administrative Penalties</u>
892-X-1-.14	<u>Administrative Penalties - QPD</u>
892-X-1-.15	<u>Involuntary Withdrawal or Suspension</u>
892-X-1-.16	<u>Voluntary Withdrawal</u>
892-X-1-.18	<u>Reports by the Treasurer</u>
892-X-1-.19	<u>Use of Letters of Credit as Eligible Collateral</u>

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

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](mailto:daria.story@treasury.alabama.gov).

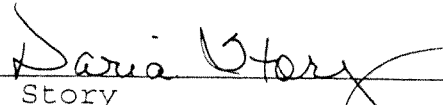
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

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](mailto:daria.story@treasury.alabama.gov)

  
\_\_\_\_\_  
Daria Story  
Assistant State Treasurer

**892-X-1-. 14 Administrative Penalties – QPD**

The following administrative penalties may be enforced upon a QPD in lieu of suspension or involuntary withdrawal for violation of any action listed in Section 892-X-1-.13:

(1) Notice of SAFE Violation.

(a) The written Notice of SAFE Violation will be issued detailing the violation and providing shall have the following form:

- ~~1. Issued within 5 banking days of detection of infraction;~~
- ~~2. In written form, providing details of the violation.~~
- ~~3. Providing that fines will be incurred if the violation is not corrected, or if it is repeated within one year of QPD's written response;~~
- ~~4. Requiring a written response from the QPD within 10 banking days of the date of Notice;~~
- ~~5. Delivered by fax notice to the QPD with the original mailed.~~

(b) The QPD shall prepare a written Response to Notice of SAFE Violation within 10 banking days that will:

- ~~1. Provides a corrective action plan with a timeframe for completion within 30 calendar days; or~~
- ~~2. Provide a statement and substantiating documentation that the infraction has not occurred.~~
- ~~3. Delivered by fax notice to SAFE with original to be mailed.~~

~~(c) Written confirmation of receipt will be provided to the QPD by SAFE.~~

~~(cd) Any occurrences of the same violation by the QPD subsequent to the initial Notice but prior to the Resolution Date will not result in additional action by SAFE.~~

(2) Notice of SAFE Fine.

(a) A Notice of SAFE Fine shall be issued under one or more of the following conditions:

1. The Recurrence of a previous infraction cited by a Notice of SAFE Violation.

2. No response is received from the QPD to either the Notice of SAFE Violation or the Notice of SAFE Fine;

3. The QPD refuses to correct a violation;

4. The violation significantly harms the SAFE Program.

(b) The written Notice of SAFE Fine shall be generated as follows:

~~1. Within 5 banking days of the detection of one of the conditions stated in (a) above;~~

~~2. In written form, providing details of the violation and;~~

~~3. Providing the amount of the fine to be incurred by the QPD;~~

~~4. Requiring a written response from the QPD within 10 banking days of the date of the Notice;~~

~~5. Delivered by fax notice to the QPD with the original mailed.~~

(c) The QPD shall prepare a written response to the Notice of SAFE Fine within 10 banking days that will:

~~1. Provides a corrective action plan with a timeframe for completion within 30 calendar days; and~~

~~2. Includes payment by check as stated in the Notice; or~~

~~3. Provides a statement and substantiating documentation that the infraction has not occurred; and~~

~~4. Delivered by fax notice to SAFE with the original to be mailed.~~

~~(d) Written confirmation of receipt will be provided to the QPD by SAFE.~~

(3) The amount of the fine imposed will be determined as follows:

(a) Violations considered Non-Willful will be:

1. The first, second, and third Recurrence; and,

2. Fined in the amount of \$250 per violation

(b) <sup>≠</sup> Violations considered Willful will be:

1. The QPD has not responded to either the Notice of SAFE Violation or the Notice of SAFE Fine; or

2. The QPD responds to either notice that it does not intend to correct the violation; or

3. The fourth Recurrence of the same violation; or

4. The violation is of such nature that it would cause significant harm to the SAFE Program; and,

5. Fined in the amount of \$2,500 for each violation

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

**Statutory Authority:** Sections 41-14A-7, Code of Alabama 1975, as amended.

**History:** **New Rule:** Filed January 23, 2004; effective February 27, 2004.

**Amended:** Filed January 19, 2006; effective February 23, 2006.

**Amended:** Filed July 20, 2011