

HOUSE BILL NO. 1205

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Labor and Commerce

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Lopez)

A BILL to amend and reenact §§ 2.2-1802, 2.2-1803, 2.2-1810, 2.2-1813, 2.2-1814, 2.2-1816, 2.2-1818, 2.2-4401, 2.2-4405, 6.2-1302, 6.2-1327, and 58.1-3149 of the Code of Virginia, relating to public deposits; credit unions.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1802, 2.2-1803, 2.2-1810, 2.2-1813, 2.2-1814, 2.2-1816, 2.2-1818, 2.2-4401, 2.2-4405, 6.2-1302, 6.2-1327, and 58.1-3149 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1802. Payment of state funds into state treasury; deposits in state depositories; credit of fund not paid into general fund; exceptions as to endowments and gifts to institutions; appropriations by federal government.**

Every state department, division, officer, board, commission, institution or other agency owned or controlled by the Commonwealth, whether at the seat of government or not, collecting or receiving public funds, or moneys from any source, belonging to or for the use of the Commonwealth, or for the use of any state agency, shall hereafter pay the same promptly into the state treasury. All fees of office and commissions accruing to the State Treasurer shall be paid into the state treasury.

Any state department, division, officer, board, commission, institution or other agency at the seat of government shall deposit such moneys to the credit of the State Treasurer upon communicating with him and receiving instructions from him as to what state depository may be used for the purpose. In every such case the depositor shall retain a deposit receipt or a deposit certificate form certified by the bank or credit union receiving the deposit for every such deposit to the State Treasurer and send to the Comptroller a copy of the deposit receipt, certificate, or other documentation supporting the deposit, as prescribed by the Comptroller.

27 Any state department, division, officer, board, commission, institution or other agency not at the  
28 seat of government, other than county and city treasurers and clerks of courts, depositing such moneys to  
29 its or his credit in ~~a local bank~~ bank or credit union shall deposit such moneys to the credit of the State  
30 Treasurer in a state depository duly designated in accordance with this chapter, and in every such case the  
31 depositor shall retain a deposit receipt or a deposit certificate form certified by the bank or credit union  
32 receiving the deposit for every deposit to the State Treasurer and send to the Comptroller a copy of the  
33 deposit receipt, certificate, or other documentation supporting the deposit, as prescribed by the  
34 Comptroller. Moneys deposited into such state depositories shall be transferred to a concentration-~~bank~~  
35 depository institution as prescribed by the State Treasurer.

36 Moneys paid into the state treasury that are not now payable into the general fund of the state  
37 treasury shall be placed to the credit of the respective accounts that are required by law to be kept on the  
38 books of the Comptroller or to the credit of new accounts to be opened on the books of the Comptroller  
39 with such agencies so paying such moneys into the state treasury, respectively.

40 This chapter shall not apply to the endowment funds or gifts to institutions owned or controlled by  
41 the Commonwealth, or to the income from such endowment funds or gifts, or to private funds belonging  
42 to the students or inmates of state institutions. The cash as well as the notes of student loan funds shall be  
43 held by the respective institutions.

44 Appropriations made by the government of the United States to or for the benefit of any state  
45 institution or agency, however, shall be paid into the state treasury and used for the purposes for which  
46 such appropriations were made.

47 **§ 2.2-1803. State Treasurer; regulation procedures for depositing money.**

48 The State Treasurer may adopt regulations or other directives establishing procedures for  
49 depositing moneys in ~~depository banks~~ state depositories and for reporting the deposits. The regulations  
50 may address, by way of explanation and not limitation: (i) the form of the required reports; (ii) the  
51 frequency of reports and deposits; (iii) the disposition of checks; and (iv) the establishment of ~~banking~~  
52 depository relationships. All agencies and entities depositing moneys to the credit of the Treasurer of  
53 Virginia, including judicial and legislative service agencies, clerks of court, local treasurers or other

54 officials performing similar duties, and political subdivisions, shall comply with the State Treasurer's  
55 regulations or other directives.

56 **§ 2.2-1810. State Treasurer to keep accounts with depositories.**

57 The State Treasurer shall keep accounts on the books of his office with the different depositories,  
58 on which accounts balances shall be struck monthly, showing the amount in ~~bank~~ depository institutions  
59 to the credit of the State Treasurer at the end of each month.

60 **§ 2.2-1813. Deposits in banks, credit unions, and savings institutions designated as state**  
61 **depositories.**

62 Moneys to be paid into the state treasury shall be deposited in the banks, credit unions, and savings  
63 institutions designated as state depositories by the State Treasurer.

64 **§ 2.2-1814. Amount and time limit of deposits.**

65 The State Treasurer may arrange for and make state deposits in such amounts and for such time as  
66 in his judgment the condition of the state treasury permits; however, no state deposit shall be made for a  
67 period in excess of five years. The money deposited in a bank, credit union, or savings institution in excess  
68 of the amount insured by the Federal Deposit Insurance Corporation, National Credit Union  
69 Administration, or other federal insurance agency shall be fully collateralized by eligible collateral as  
70 defined in § 2.2-4401.

71 **§ 2.2-1816. How public moneys transferred to depositories.**

72 All transfers of public moneys from one depository to another for any purpose shall be made by  
73 electronic funds transfer at the direction of the State Treasurer or his duly authorized deputies who shall  
74 order the transferor bank, credit union, or savings institution to make payment to the transferee bank,  
75 credit union, or savings institution for deposit to the credit of the State Treasurer.

76 **§ 2.2-1818. Responsibility of Commonwealth for securities deposited with Commonwealth**  
77 **Transportation Board.**

78 The Commonwealth shall be responsible for the safekeeping of all bonds or other securities  
79 deposited with the Commissioner of Highways or the Commonwealth Transportation Board as surety on  
80 account of funds deposited in banks, credit unions, or savings institutions by division engineers of the

81 Department of Transportation. If such bonds or securities or any of them are lost, destroyed, or  
82 misappropriated, the Commonwealth shall make good such loss to the bank, credit union, or savings  
83 institution making the deposit of its bonds or other securities.

84       Upon the closing of accounts of district engineers with banks, its bonds and other securities then  
85 on deposit shall be returned to the bank.

86       **§ 2.2-4401. Definitions.**

87       As used in this chapter, unless the context requires a different meaning:

88       "Dedicated method" or "opt-out method" means the securing of public deposits without accepting  
89 the contingent liability for the losses of public deposits of other qualified public depositories, pursuant to  
90 § 2.2-4404 and regulations and guidelines promulgated by the Treasury Board.

91       "Defaulting depository" means any qualified public depository determined to be in default or  
92 insolvent.

93       "Default or insolvency" includes, but shall not be limited to, the failure or refusal of any qualified  
94 public depository to return any public deposit upon demand or at maturity and the issuance of an order of  
95 supervisory authority restraining such depository from making payments of deposit liabilities or the  
96 appointment of a receiver for such depository.

97       "Eligible collateral" means securities or instruments authorized as legal investments under the laws  
98 of the Commonwealth for public sinking funds or other public funds as well as Federal Home Loan Bank  
99 letters of credit issued in accordance with guidelines promulgated by the Treasury Board.

100       "Located in Virginia" means having a main office or branch office in the Commonwealth where  
101 deposits are accepted, checks are paid, and money is lent.

102       "Low-income credit union" means a credit union that is designated as a low-income credit union  
103 by the National Credit Union Administration.

104       "Pooled method" means securing public deposits by accepting the contingent liability for the losses  
105 of public deposits of other qualified public depositories choosing this method, pursuant to § 2.2-4403 and  
106 regulations and guidelines promulgated by the Treasury Board.

107 "Public deposit" means moneys held by a public depositor who is charged with the duty to receive  
108 or administer such moneys and is acting in an official capacity, such moneys being deposited in any of  
109 the following types of accounts: nonnegotiable time deposits, demand deposits, savings deposits, or any  
110 other transaction accounts.

111 "Public depositor" means the Commonwealth or any county, city, town or other political  
112 subdivision thereof, including any commission, institution, committee, board, or officer of the foregoing  
113 and any state court.

114 "Qualified escrow agent" means the State Treasurer or any bank or trust company approved by the  
115 Treasury Board to hold collateral pledged to secure public deposits.

116 "Qualified public depository" means any national banking association, federal savings and loan  
117 association, ~~or~~ federal savings bank, or federal credit union that is designated as a low-income credit union  
118 by the National Credit Union Administration located in Virginia, any bank, low-income credit union, trust  
119 company, ~~or~~ savings institution organized under Virginia law, or any state bank, low-income credit union,  
120 or savings institution organized under the laws of another state located in Virginia authorized by the  
121 Treasury Board to hold public deposits according to this chapter.

122 "Required collateral" of a qualified public depository means the amount of eligible collateral  
123 required to secure public deposits set by regulations or an action of the Treasury Board.

124 "Treasury Board" means the Treasury Board of the Commonwealth created by § 2.2-2415.

125 **§ 2.2-4405. Powers of Treasury Board relating to the administration of this chapter.**

126 The Treasury Board shall have power to:

- 127 1. Make and enforce regulations and guidelines necessary and proper to the full and complete  
128 performance of its functions under this chapter;
- 129 2. Prescribe and enforce regulations and guidelines fixing terms and conditions consistent with  
130 this chapter under which public deposits must be secured;
- 131 3. Require additional collateral, in excess of the required collateral of any or all qualified public  
132 depositories as it may determine prudent under the circumstances;

133 4. Determine what securities or instruments shall be acceptable as eligible collateral, and fix the  
134 percentage of face value or market value of such securities or instruments that can be used to secure public  
135 deposits;

136 5. Establish guidelines to permit banks and credit unions to withdraw from the procedures for the  
137 payment of losses under § 2.2-4403 and instead be governed by the procedures for the payment of losses  
138 under § 2.2-4404, consistent with the primary purpose of protecting public deposits;

139 6. Require any qualified public depository to provide information concerning its public deposits  
140 as requested by the Treasury Board; and

141 7. Determine when a default or insolvency has occurred and to take such action as it may deem  
142 advisable for the protection, collection, compromise or settlement of any claim arising in case of default  
143 or insolvency.

144 **§ 6.2-1302. Powers.**

145 In addition to the powers specified or implied elsewhere in this chapter or in the laws of the  
146 Commonwealth, a credit union shall have the power to:

147 1. Enter into contracts;

148 2. Sue and be sued;

149 3. Adopt, use, and display a corporate seal;

150 4. Receive savings from and make loans and extend lines of credit to its members;

151 5. Individually or jointly with other credit unions acquire, lease as lessor or lessee, hold, assign,  
152 pledge, exchange, repair, mortgage, hypothecate, sell, discount, or otherwise dispose of property or assets,  
153 either in whole or in part, as necessary or incidental to its operations, including any property or assets  
154 obtained as a result of defaults under obligations owing to it;

155 6. Borrow from any source, provided that (i) a credit union shall notify and obtain prior approval  
156 of the Commissioner if the total borrowings will exceed 50 percent of the credit union's outstanding shares  
157 and (ii) in no event shall the borrowings exceed 90 percent of the credit union's outstanding shares;

158 7. Sell all or substantially all of its assets or purchase all or substantially all of the assets of another  
159 credit union, subject to the approval of the Commission;

160 8. Offer related financial services, including electronic fund transfers, share draft accounts, safe  
161 deposit boxes, leasing of tangible personal property to its members, and correspondent arrangements with  
162 other financial institutions;

163 9. Hold membership in other credit unions organized under this chapter or other applicable law,  
164 and in associations and organizations controlled by or fostering the interest of credit unions, including a  
165 central liquidity facility organized under state or federal law;

166 10. Contract with any licensed insurance company or society to insure the lives of its members to  
167 the extent of their loans and share accounts, in whole or in part, and to pay all or a portion of the premium  
168 therefor;

169 11. Engage in activities or programs as requested by any governmental authority, subject to the  
170 approval of the Commissioner;

171 12. Invest its funds, operate a business, manage or deal in property when such actions are  
172 reasonably necessary to avoid loss on a loan or investment previously made or an obligation previously  
173 created in good faith. Such property or business shall not be held or operated by the credit union for a  
174 period longer than is reasonably required to protect the interest of the credit union, unless specifically  
175 authorized by the Commissioner;

176 13. Make contributions to any nonprofit civic, charitable, or service organizations;

177 14. Make loans to its members and to other credit unions;

178 15. Engage in virtual currency custody services in the manner and to the extent provided in § 6.2-  
179 1302.1;

180 16. Engage in any additional activity, service, or other practice that is authorized for a federally  
181 chartered credit union and that has not otherwise been authorized for a state-chartered credit union by the  
182 provisions of this chapter or by Commission regulation, including regulations adopted pursuant to  
183 subsection B of § 6.2-1303, provided that (i) at least 45 calendar days prior to engaging in any such  
184 activity, service, or practice the credit union provides the Commissioner with written notice along with  
185 any additional information relating to the activity, service, or practice that the Commissioner may require  
186 and (ii) the credit union engages in the activity, service, or practice subject to the same terms, conditions,

187 and limitations that are applicable to a federally chartered credit union. The Commissioner may at any  
 188 time, based upon supervisory, legal, or safety and soundness considerations, prohibit or further restrict the  
 189 activity, service, or practice. "Activity, service, or other practice" does not include credit union field of  
 190 membership or field of membership expansion under §§ 6.2-1327 and 6.2-1328 and any related  
 191 regulations;~~and~~

192 17. Hold public deposits; and

193 18. Undertake such other activities relating to the purposes of the credit union as its charter or  
 194 bylaws may authorize, provided such activities are not inconsistent with this chapter.

195 **§ 6.2-1327. Membership defined; field of membership.**

196 A. The membership of a credit union shall consist of the incorporators, employees of such credit  
 197 union, and other persons within the field of membership set forth in the bylaws as have: (i) been fully  
 198 admitted into membership, (ii) paid any required entrance fee or annual membership fee, or both, (iii)  
 199 subscribed for one or more shares, (iv) paid the initial installment thereon, and (v) complied with such  
 200 other requirements as the articles of incorporation or bylaws specify.

201 B. Credit union membership shall be limited to persons within a specified field of membership,  
 202 individuals within the immediate family or household of such persons, associations of such persons, other  
 203 credit unions, and employees of the credit union. The field of membership specified shall be composed of  
 204 one of the following:

- 205 1. A single group having a common bond of occupation or association;
- 206 2. More than one group, each of which has a common bond of occupation or association, and each  
 207 of which does not exceed 3,000 members at the time it is proposed to be included in a multiple common-  
 208 bond credit union. The 3,000-member limitation shall not apply if the Commission determines that an  
 209 exception on the grounds provided in subsection (d) (2) or (d) (3) of § 101 of the Credit Union Membership  
 210 Access Act (12 U.S.C. § 1759) is appropriate. In making any determination under this provision, the  
 211 Commission shall give consideration to the National Credit Union Administration guidelines; or
- 212 3. Those persons or organizations within a well-defined local community, neighborhood or rural  
 213 district.



214           The Commission shall in its discretion determine whether a proposed field of membership  
215 constitutes a "well-defined local community, neighborhood or rural district." In making such  
216 determination, the Commission shall give consideration to the definition of the term that has been adopted  
217 by the National Credit Union Administration and has become legally effective.

218           C. Except as the board of directors may provide to the contrary in the bylaws with respect to  
219 termination of membership, once a person or entity becomes a member of a credit union in accordance  
220 with this chapter, that person or entity may remain a member of that credit union until the person or entity  
221 chooses to withdraw from the credit union.

222           D. The board of directors may expel from the credit union any member who: (i) has not carried  
223 out his obligations to the credit union; (ii) has been convicted of a criminal offense; (iii) neglects or refuses  
224 to comply with the provisions of this chapter or of the bylaws; (iv) neglects to pay his debts, or otherwise  
225 causes financial loss to the credit union; or (v) has deceived the credit union with regard to the use of  
226 borrowed money. No member shall be so expelled until he has been informed in writing of the charges  
227 against him, and an opportunity has been given to him, after reasonable notice, to be heard.

228           E. Members of the credit union shall not be personally liable for payment of the debts of the credit  
229 union.

230           F. The surviving spouse of a deceased credit union member shall be eligible to become a member  
231 of the credit union to which the deceased member belonged. In no other instance shall an individual be  
232 eligible for membership in a credit union on the basis of the individual's relationship to another person  
233 who is eligible for membership in the credit union, unless the individual is a member of the immediate  
234 family or household of such person. The board of directors of a credit union may provide in the bylaws  
235 for a less inclusive policy governing membership by virtue of relationship to another person, and such  
236 policy shall be effective.

237           G. Societies, associations, organizations, partnerships, and corporations composed of persons who  
238 are eligible for membership may be admitted to membership in the same manner and under the same  
239 conditions as such persons.

240 H. The Commonwealth or any county, city, town, or other political subdivision thereof, including  
 241 any commission, institution, committee, board, or officer of the foregoing, and any state court may become  
 242 members of a credit union for purposes of placing deposits in and receiving services from the credit union.

243 I. Any individual or entity that was a member of a credit union as of July 1, 1999, may remain a  
 244 member of the credit union after that date, and any group that was included in the field of membership of  
 245 a credit union on that date may remain within the field of membership of that credit union after that date.  
 246 The successor of an entity that was a member or was eligible for membership in a credit union or for  
 247 inclusion in a field of membership on July 1, 1999, retains the status of its predecessor.

248 **§ 58.1-3149. Money received to be deposited.**

249 All money received by a treasurer for the account of either the Commonwealth or the treasurer's  
 250 county or city shall be deposited intact by the treasurer as promptly as practical after its receipt in a bank,  
 251 low-income credit union, or savings institution authorized to act as depository therefor. All deposits made  
 252 pursuant to this provision shall be made in the name of the treasurer's county or city. The treasurer may  
 253 designate any bank, low-income credit union, or savings and loan association authorized to act as a  
 254 depository to receive any payments due to the county or city directly, either through a processing facility  
 255 or through a branch office. As used in this section, "low-income credit union" has the same meaning as  
 256 provided in § 2.2-4401.

257 **2. That the Treasury Board shall designate a rating service to evaluate the creditworthiness of any**  
 258 **credit union seeking to become a qualified public depository, as defined in § 2.2-4401 of the Code of**  
 259 **Virginia, as amended by this act, within 180 days of the enactment of this act.**

260 **3. That the Treasury Board shall promulgate emergency regulations to implement the provisions of**  
 261 **the first enactment of this act to be effective within 280 days of its enactment. Neither the provisions**  
 262 **of the Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia nor public participation**  
 263 **guidelines adopted pursuant thereto shall apply to the initial adoption of any regulations**  
 264 **promulgated pursuant to this act.**

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