

**§ 27-105-6. Further qualification as public funds depository participating in public funds guaranty pool.**

- (1) There is established within the State Treasury a public funds guaranty pool to consist of qualified public funds depositories commissioned under [Section 27-105-5\(2\)](#) to be administered by a Guaranty Pool Board and the State Treasurer.
- (2) There is established a nine-member Guaranty Pool Board to administer the guaranty pool and to review and recommend criteria to be used by the State Treasurer in order to protect public deposits and the depositories in the program.
- (3) Any financial institution qualifying as a guaranty pool member shall guarantee public fund deposits against loss caused by the default or insolvency of other guaranty pool members and shall execute under oath an agreement of contingent liability in addition to a public deposit pledge agreement.
- (4) In addition to maintaining the capital requirements of [Section 27-105-5](#), a guaranty pool member shall meet and maintain, on a quarterly basis, at least two (2) of the following ratios:
  - (a) A ratio of loans past due ninety (90) days or more to total loans of less than two percent (2%);
  - (b) An annualized return on average assets of more than seventy-five one hundredths of one percent (0.75%); and
  - (c) A total loans to total assets ratio not exceeding eighty percent (80%).

Failure of a guaranty pool member to meet the capital ratio and at least two (2) of the above three (3) ratios shall subject the member to subsection (9) of this section.

- (5) In fulfilling the requirements of this section, the Treasurer has the power to:
  - (a) Order discontinuance of participation in the guaranty pool program by a qualified public depository upon failure of the financial institution to meet the above requirements of subsection (4) of this section;
  - (b) Appoint a nine-member Guaranty Pool Board;
  - (c) Establish goals and objectives and provide other data as may be necessary to assist the Guaranty Pool Board established under subsection (2) in developing standards for the program;
  - (d) Perform financial analysis of any qualified public funds depository as needed.
- (6) The Guaranty Pool Board shall consist of:
  - (a) One (1) representative of financial institutions with assets of One Billion Dollars (\$1,000,000,000.00) or more chosen by the State Treasurer from a list of two (2) bankers nominated by the Mississippi Bankers Association;

- (b) One (1) representative of financial institutions with assets of Three Hundred Million Dollars (\$300,000,000.00) but less than One Billion Dollars (\$1,000,000,000.00) chosen by the State Treasurer from a list of two (2) bankers nominated by the Mississippi Bankers Association;
- (c) One (1) representative of financial institutions with assets of less than Three Hundred Million Dollars (\$300,000,000.00) chosen by the State Treasurer from a list of two (2) bankers nominated by the Mississippi Bankers Association;
- (d) Two (2) representatives of banks at large chosen by the State Treasurer from a list of four (4) bankers nominated by the Mississippi Bankers Association;
- (e) One (1) member chosen by the State Treasurer from a list of two (2) supervisors nominated by the Mississippi Supervisors Association;
- (f) One (1) member chosen by the State Treasurer from a list of two (2) municipal officials nominated by the Mississippi Municipal League; and
- (g) The Commissioner of Banking and Consumer Finance and the State Treasurer.

The Guaranty Pool Board shall determine the effective date of the public funds guaranty pool, which date shall be no earlier than July 1, 2001, and so notify the State Treasurer. All nominees of the Mississippi Bankers Association shall be employed by a financial institution that is a member of the public funds guaranty pool.

Initially, three (3) of the five (5) representatives of financial institutions shall be appointed for a term of one (1) year. The remaining members other than the Commissioner of Banking and Consumer Finance and State Treasurer, who shall be permanent members, shall be appointed for a term of two (2) years. Upon expiration of these terms, members shall be appointed thereafter for two-year terms. Any member is eligible for reappointment and shall serve until a successor qualifies. If a vacancy occurs in the position of any appointed member, a new member shall be appointed in the same manner as the member's predecessor for the remainder of the unexpired term. A member of the board shall receive no compensation for service on the board.

The Guaranty Pool Board shall elect a chair and vice chair and shall also designate a secretary who need not be a member of the Guaranty Pool Board. The secretary shall keep a record of the proceedings of the Guaranty Pool Board and shall be the custodian of all printed materials filed with or by the advisory committee. Notwithstanding the existence of vacancies on the Guaranty Pool Board, a majority of the members constitutes a quorum. The Guaranty Pool Board shall not take official action in the absence of a quorum.

In addition to the requirements of subsection (4) of this section, the Guaranty Pool Board, by a two-thirds (2/3) supermajority vote of the entire Guaranty Pool Board, may establish additional criteria for qualification as a guaranty pool member, including promulgating additional ratios, requiring stricter ratios than provided under subsection (4), or requiring additional collateral; however, any additional criteria shall be uniformly applied to all participants, although higher

collateral pledge levels may be based on different financial criteria. Any reduction in previously approved criteria shall likewise be subject to a two-thirds (2/3) supermajority vote of the entire Guaranty Pool Board. Any additional criteria will become effective at the quarter next after the Guaranty Pool Board votes. The Guaranty Pool Board is authorized to promulgate regulations in order to more fully carry out its obligations under this paragraph.

(7) A public funds guaranty pool member shall submit to the State Treasurer not later than the date required to be filed with its primary federal regulatory agency:

(a) A copy of the quarterly Consolidated Reports of Condition and Income, and any amended reports, required by the Federal Deposit Insurance Act, 12 USCS Section 1811 et seq., if the depository is a bank; or

(b) A copy of the Thrift Financial Report, and any amended reports, required to be filed with the Office of Thrift Supervision if the depository is a savings and loan association.

(8) A public funds guaranty pool member may effect a voluntary withdrawal from the guaranty pool by giving written notice to the State Treasurer. Notice of withdrawal shall be mailed or delivered in sufficient time to be received by the State Treasurer at least one hundred eighty (180) days before the effective date of withdrawal. On the effective date of withdrawal, the guaranty pool member shall pledge and place on deposit with the State Treasurer securities equal to one hundred five percent (105%) of the outstanding balances of public funds held less the amount of funds insured by the Federal Deposit Insurance Corporation.

The contingent liability for any loss before the effective date of withdrawal of the depository withdrawing from the guaranty pool shall continue after the effective date of the withdrawal for a period of six (6) months.

(9) A public funds guaranty pool member failing to meet the requirements for membership in subsection (4) of this section or as modified by the Guaranty Pool Board under its authority at subsection (6) is required to withdraw from the guaranty pool. The State Treasurer shall notify the public funds guaranty pool member of the effective date of the withdrawal not less than thirty (30) days before that effective date. Not later than the effective date of withdrawal, the withdrawing pool member must pledge and place on deposit with the State Treasurer securities equal to one hundred five percent (105%) of the outstanding balances of public funds held less the amount of funds insured by the Federal Deposit Insurance Corporation or pay over those funds to the public depositor.

The contingent liability for any loss before the effective date of withdrawal of the depository withdrawing from the guaranty pool shall continue for a period of one (1) year after the effective date of the withdrawal.

**Sources:** Laws, 2000, ch. 408, § 2, eff from and after passage (approved Apr. 17, 2000.)