100-035, filed 8/19/83; 82-17-072 (Order 1868), § 388-100-035, filed 8/18/82; 82-04-071 (Order 1754), § 388-100-035, filed 2/3/82; 81-16-032 (Order 1684), § 388-100-035, filed 7/29/81.]

Title 389 WAC
PUBLIC DEPOSIT PROTECTION COMMISSION

Chapter 389-12
Practice and procedure—Public depositaries.

Chapter 389-12 WAC
PRACTICE AND PROCEDURE—PUBLIC DEPOSITARIES

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WAC 389-12-010 Promulgation. The public deposit protection commission, hereinafter referred to as the "commission," after due and proper notice, and pursuant to the provisions of chapter 193, Laws of 1969 1st ex. sess., as last amended by chapter 177, Laws of 1984, hereinafter referred to as the "act," hereby adopts and promulgates the following rules and regulations, effective October 10, 1984. [Statutory Authority: RCW 39.58.040. 84-21-036 (Order 84-II, Resolution No. 84-004), § 389-12-010, filed 10/11/84; 84-03-037 (Order 84-01), § 389-12-010, filed 1/13/84; Order 77-XIII, § 389-12-010, filed 9/27/77; Order II, § 389-12-010, filed 6/13/73; Order 1, § 389-12-010, filed 2/9/70.]

WAC 389-12-020 Definitions. Unless the context requires otherwise:

1) Qualified public depositary. "Qualified public depositary" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the commission to hold public deposits.

2) Financial institution. A "financial institution" means any of the following which are located in this state and are lawfully engaged in business:

(a) Bank depositaries—Any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300, and any state bank or trust company or national banking association.

(b) Thrift depositaries—Any state chartered mutual savings bank or stock savings bank, any state or federally chartered savings and loan association (including federally chartered savings bank).

3) Investment deposits. The term "investment deposit" shall mean time deposits and savings deposits of public funds available for investment. Savings deposit shall mean an interest bearing deposit of public funds that is subject to withdrawal and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. Time deposit shall mean a single maturity or multiple maturity interest bearing investment deposit of public funds, which is either evidenced by a certificate of deposit issued by a qualified public depositary, or reflected in a book—entry system of such depositary approved by federal regulatory authorities, state supervisor of banking and/or state supervisor of savings and loan associations, and which is payable to a treasurer on a date certain. Such certificate shall not be negotiable, nor an interest in an investment deposit transferable, except between treasurers and/or qualified public depositaries.

4) Commission report. The "commission report" shall mean a formal accounting rendered by qualified public depositaries to the commission, which details pertinent information of each depositary as of the close of the last business day of each calendar quarter; the commission report is due in the office of the commission not later than thirty days after the end of the calendar quarter.

5) Date of loss. The term "date of loss" shall mean the date on which a loss shall be deemed to have occurred within the meaning of the act, and shall be the first to happen of the following:

(a) The date of the taking of possession of the financial institution by a supervisory agency; or

(b) The date of the appointment of the receiver or conservator for a financial institution; or

(c) The date of the commencement of a voluntary liquidation proceeding for a financial institution; or

(d) The date of an order issued by a regulatory authority or a court of competent jurisdiction restraining a financial institution from making payments on deposit liabilities; or

(e) The date on which the commission declares that a financial institution no longer has the ability to repay public deposits in full.

6) Depositary pledge agreement. "Depositary pledge agreement" means a written tri—party agreement, on a form supplied by the commission, wherein a financial institution, in compliance with the act and as a condition precedent to becoming or continuing to be a qualified public depositary, transfers and delivers securities which are eligible collateral to a corporate fiduciary under the exercise of its trust powers, to a federal reserve bank or any branch thereof or federal home loan bank or any branch thereof, which agrees to safekeep such securities for the primary benefit of the commission under the terms and conditions of the agreement and for the purposes set forth by the act and the regulations of the

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commission. Such agreement shall be executed on behalf of the commission by the chairman, who shall be the state treasurer.

(7) Segregation of collateral. "Segregation of collateral" means the transfer and delivery of eligible securities by a qualified public depositary pursuant to a depositary pledge agreement (RCW 39.58.050). A depositary wishing to reduce the amount of securities pledged as collateral must submit a written request to the commission. The trustee holding the collateral shall not allow a reduction of securities without the prior written approval of the commission. Eligible securities shall not include coupon securities from which have been detached any coupon which is not matured at the time of transfer and delivery of such securities as segregated collateral. When a qualified public depositary pledges eligible securities whose payments include a periodic principal reduction, the depositary shall promptly advise the commission of the dates and amounts of such principal payments.

(8) Net worth. "Net worth" of a qualified public depositary means:

(a) For a bank depositary, the aggregate of capital, surplus, undivided profits and all capital notes and debentures which are subordinate to the interest of depositors;

(b) For a thrift depositary, the aggregate of such capital stock, guaranty fund, general reserves, surplus, undivided profits, and all capital notes and debentures which are subordinate to the interest of depositors, as are eligible for inclusion in otherwise determining the net worth of a mutual savings bank, stock savings bank, or savings and loan association, excluding appraised equity capital and income capital and net worth certificates.

(9) Corporate fiduciary. "Corporate fiduciary" for the purposes of these rules means a financial institution as defined herein which is possessed of statutorily granted trust authority provided that for the purposes of this definition such financial institution need not be located or doing business in the state of Washington. [Statutory Authority: RCW 39.58.040. 84–21–036 (Order 84–II, Resolution No. 84–004), § 389–12–020, filed 10/11/84; 84–03–037 (Order 84–01), § 389–12–020, filed 1/13/84; 78–12–075 (Order 78–XIV, Resolution No. 78–XIV), § 389–12–020, filed 12/5/78; Order 77–XIII, § 389–12–020, filed 9/27/77; Order II, § 389–12–020, filed 6/13/73; Order I, § 389–12–020, filed 2/9/70.]

WAC 389–12–030 New qualified public depositaries. Any financial institution in the state of Washington eligible under the act, in order to become a qualified public depositary, must be approved by the commission and segregate collateral in the manner as set forth in these rules prior to the receipt of public deposits. Until such time as qualified depositaries have submitted four consecutive reports to the commission as required by RCW 39.58.100, they shall at all times be required to pledge and segregate eligible securities, valued at market value, in an amount equal to not less than 10% of all public funds on deposit in said depositary. During the interim period in which a financial institution is required to file four consecutive reports, each such institution shall report to the commission on each commission report date on forms supplied by the commission. [Statutory Authority: RCW 39.58.040. 84–21–036 (Order 84–II, Resolution No. 84–004), § 389–12–030, filed 10/11/84; 84–03–037 (Order 84–01), § 389–12–030, filed 1/13/84; Order 77–XIII, § 389–12–030, filed 9/27/77; Order II, § 389–12–030, filed 6/13/73; Order I, § 389–12–030, filed 2/9/70.]

WAC 389–12–040 Computation and report of maximum liability. On each commission report date each public depositary shall recompute its maximum liability on a form to be supplied by the commission. Such report shall, in addition to other information, show the current amount of deposits of Washington state and its political subdivisions for the most recent commission report date, such deposits as shown on the four most recent reports (i.e., current report and three immediately preceding reports), the average of these deposits for the four report periods, and the depositary's maximum liability as defined in RCW 39.58.010(6).

The report to the commission shall be received in the office of the commission not later than thirty days following each calendar quarter end, and shall have attached a completed copy of the balance sheet portion of the depositary's most recent consolidated report of condition or most recent report to the Federal Home Loan Bank, whichever is applicable.

At the end of each calendar quarter, the commission shall provide appropriate reporting forms to each qualified public depositary and the amount constituting thirty percent of total public funds on deposit in Washington state for the preceding quarter. Depositaries will use this figure for the current report period and to monitor their total public funds on deposit for the ensuing quarter, unless notified of a revised figure by the commission.

Upon written request from a depositary the commission may, for good cause shown, extend the due date for commission reports for a period not to exceed ten days.

If the maximum liability has increased from the previous report or if aggregate public deposits exceed the limitations prescribed in section 19, chapter 177, Laws of 1984, the depositary shall immediately increase its collateral and the commission shall be so notified.

Each public depositary shall provide to the commission a copy of any changes, amendments, or alterations to the depositary's financial report as submitted to appropriate regulatory authority which relate to (a) deposits of states and political subdivision, and/or (b) net worth. [Statutory Authority: RCW 39.58.040. 84–21–036 (Order 84–II, Resolution No. 84–004), § 389–12–040, filed 10/11/84; 84–03–037 (Order 84–01), § 389–12–040, filed 1/13/84; Order 77–XIII, § 389–12–040, filed 9/27/77; Order II, § 389–12–040, filed 6/13/73; Order I, § 389–12–040, filed 2/9/70.]

WAC 389–12–050 Valuation. Securities pledged as collateral by a qualified public depositary shall be reported at market value.

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Market value shall be computed as of the date of segregation or the last preceding commission report date, whichever is later. When the commission report is submitted, each depositary shall provide on a form supplied by the commission a current listing of those securities pledged and their then current market and par value. [Statutory Authority: RCW 39.58.040, 84–21–036 (Order 84–II, Resolution No. 84–004), § 389–12–050, filed 10/11/84; 84–03–037 (Order 84–01), § 389–12–050, filed 1/13/84; Order 77–XIII, § 389–12–050, filed 9/27/77; Order II, § 389–12–050, filed 6/13/73; Order II, § 389–12–050, filed 2/9/70.]

WAC 389–12–065 Aggregate deposit limitations. Whenever the public funds on deposit in a qualified public depositary exceed the limits set forth in section 19, chapter 177, Laws of 1984, such depositary shall immediately:

1. Notify the commission; and
2. Provide additional collateral, if necessary, to provide one hundred percent collateralization of such excess deposits.

When a depositary's net worth position is reduced, such depositary shall determine if any public treasurer's funds on deposit exceed the revised net worth. If any such excess deposits exist, the depositary shall immediately notify the commission and provide the commission with a detailed accounting of deposits. The depositary shall also advise the commission of its intent to:

1. Provide one hundred percent collateralization of the excess deposits; or
2. Allow the treasurer to withdraw such deposits in accordance with section 18, chapter 177, Laws of 1984. [Statutory Authority: RCW 39.58.040. 84–21–036 (Order 84–II, Resolution No. 84–004), § 389–12–065, filed 10/11/84.]

WAC 389–12–080 Maximum deposit limitation. In determining the maximum deposit limitation of any financial institution, a treasurer, unless advised to the contrary by the commission, may assume that each depositary's net worth has remained unchanged from that stated in the most recently rendered commission report. [Statutory Authority: RCW 39.58.040, 84–21–036 (Order 84–II, Resolution No. 84–004), § 389–12–080, filed 10/11/84; 84–03–037 (Order 84–01), § 389–12–080, filed 1/13/84; Order 77–XIII, § 389–12–080, filed 9/27/77; Order II, § 389–12–080, filed 2/9/70.]

WAC 389–12–100 Violations—Penalty. Violations of any of these rules or of any of the provisions of the act shall be grounds for cancellation, suspension, or revocation of a financial institution's authority to act as a public depositary. [Statutory Authority: RCW 39.58.040. 84–03–037 (Order 84–01), § 389–12–100, filed 1/13/84; Order I, § 389–12–100, filed 2/9/70.]

WAC 389–12–130 Financial institution mergers. The liability of a public depositary under chapter 39.58 RCW shall not be altered by any merger, take-over or acquisition except to the extent that such liability is assumed by the successor entity and no assets subject to a depositary pledge agreement shall be released by the commission or the trustee until such assumed liability is evidenced by the deposit of assets pursuant to the depositary pledge agreement of the successor entity. [Statutory Authority: RCW 39.58.040. 84–03–037 (Order 84–01), § 389–12–130, filed 1/13/84; Order II, § 389–12–130, filed 6/13/73.]


WAC 389–12–270 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

1. A request shall be made in writing upon a form prescribed by the Washington public deposit protection commission which shall be available at its administrative office. The form shall be presented to the public records officer, or to any member of the commission's staff, if the public records officer is not available, at the administrative office of the commission during customary office hours. The request shall include the following information:

   a. The name of the person requesting the record;
   b. The time of day and calendar date on which the request was made;
   c. The nature of the request;
   d. If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
   e. If the requested matter is not identifiable by reference to the commission's current index, an appropriate description of the record requested.

2. In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested. [Statutory Authority: RCW 39.58.040. 84–03–037 (Order 84–01), § 389–12–270, filed 1/13/84; Order XII, § 389–12–270, filed 11/28/73.]

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