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SB-239 Government finance: surplus investments: savings and loan associations or credit unions.
(2021-2022)

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Senate Bill No. 239

CHAPTER 635

An act to amend Sections 16430, 16522, and 16612 of the Government Code, relating to government finance.

[Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 239, Committee on Banking and Financial Institutions. Government finance: surplus investments: savings and loan associations or credit unions.

(1) Existing law specifies the types of securities that are eligible for the investment of surplus state funds, which include bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

This bill would instead require those bonds or interest-bearing notes to be on obligations that are issued by or fully guaranteed as to principal and interest by a federal agency of the United States or a United States government-sponsored enterprise, as defined by specified federal law.

Existing law, with respect to securities that are eligible for the investment of surplus state funds, includes debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives and bonds or debentures of the Federal Home Loan Bank Board, established under specified federal law.

This bill would provide that these types of securities also include other obligations issued by the above-described entities. The bill, with respect to securities eligible for the investment of surplus state funds, would also include shares of any money market mutual fund subject to registration by, and under the regulatory authority of, the United States Securities and Exchange Commission, subject to meeting specified conditions.

(2) Existing law, for purposes of a savings and loan association or credit union being eligible to receive deposits of state funds, specifies which securities may be received, and includes within that list of eligible securities a letter of credit issued by the Federal Home Loan Bank of San Francisco that includes specified terms. Existing law requires these securities to be in an amount in value of at least 10% in excess of the amount deposited with the savings and loan association or credit union.

This bill would instead require a letter of credit issued by the Federal Home Loan Bank of San Francisco to be in an amount in value of at least 100% of the amount deposited with the savings and loan association or credit union. The bill would also make nonsubstantive changes.

This bill would incorporate additional changes to Section 16430 of the Government Code proposed by AB 869 to be operative only if this bill and AB 869 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be any of the following:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are issued by or fully guaranteed as to principal and interest by a federal agency or a United States government-sponsored enterprise, as defined by the Omnibus Budget Reconciliation Act of 1990 (Sec. 13112, Public Law 101-508; 2 U.S.C. Sec. 622(8)).

(c) Bonds, notes, and warrants of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the state, municipal utility district, or school district of this state.

(e) Any of the following:

(1) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended (12 U.S.C. Sec. 2001 et seq.).

(2) Debentures, consolidated debentures, and other obligations issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended (12 U.S.C. Sec. 2001 et seq.).

(3) Bonds, debentures, and other obligations of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act (12 U.S.C. Sec. 1421 et seq.).

(4) Stocks, bonds, debentures, and other obligations of the Federal National Mortgage Association established under the National Housing Act, as amended (12 U.S.C. Sec. 1701 et seq.).

(5) Bonds of any federal home loan bank established under that act.

(6) Obligations of the Federal Home Loan Mortgage Corporation.

(7) Bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended (16 U.S.C. Sec. 831 et seq.).

(8) Other obligations guaranteed by the Commodity Credit Corporation for the export of California agricultural products under the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. Sec. 714 et seq.).

(f) (1) Commercial paper of "prime" quality as defined by a nationally recognized organization that rates these securities, if the commercial paper is issued by a federally or state-chartered bank or a state-licensed branch of a foreign bank, corporation, trust, or limited liability company that is approved by the Pooled Money Investment Board as meeting the conditions specified in either subparagraph (A) or subparagraph (B):

(A) Both of the following conditions:

(i) Organized and operating within the United States.

(ii) Having total assets in excess of five hundred million dollars (\$500,000,000).

(B) Both of the following conditions:

(i) Organized within the United States as a federally or state-chartered bank or a state-licensed branch of a foreign bank, special purpose corporation, trust, or limited liability company.

(ii) Having programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond.

(2) A purchase of eligible commercial paper may not do any of the following:

(A) Exceed 270 days maturity.

(B) Represent more than 10 percent of the outstanding paper of an issuing federally or state-chartered bank or a state-licensed branch of a foreign bank, corporation, trust, or limited liability company.

(C) Exceed 30 percent of the resources of an investment program.

(3) At the request of the Pooled Money Investment Board, an investment made pursuant to this subdivision shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, that are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a federally or state-chartered bank or savings and loan association, a state-licensed branch of a foreign bank, or a federally or state-chartered credit union. For the purposes of this section, negotiable certificates of deposits are not subject to Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Bank loans and obligations guaranteed by the Export-Import Bank of the United States.

(k) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1001 et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. Sec. 1087-2).

(l) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank for Puerto Rico.

(m) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

(n) Negotiable Order of Withdrawal Accounts (NOW Accounts), invested in accordance with Chapter 4 (commencing with Section 16500).

(o) Shares of any money market mutual fund subject to registration by, and under the regulatory authority of, the United States Securities and Exchange Commission, provided that all of the following conditions are met:

(1) The money market mutual fund invests in securities and obligations described in one or more of the following: subdivision (a), (b), or (e) of this section or repurchase agreements or reverse repurchase agreements described in Section 16480.4.

(2) The financial institution issuing shares of the money market mutual fund has at least five years of experience investing in the types of securities and obligations being purchased by the state and has assets under management in the money market mutual fund in excess of ten billion dollars (\$10,000,000,000).

(3) The money market mutual fund shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations, as defined by the United States Securities and Exchange Commission.

(4) The financial institution shall not impose a commission on the purchase or sale of fund shares by the state.

(5) The state shall not purchase more than 10 percent of a money market mutual fund's total assets.

(6) The state shall not invest more than 10 percent of the pool's funds in any single money market mutual fund meeting the requirements of this subdivision.

SEC. 1.5. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be any of the following:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are issued by or fully guaranteed as to principal and interest by a federal agency or a United States government-sponsored enterprise, as defined by the Omnibus Budget Reconciliation Act of 1990 (Sec.

(c) Bonds, notes, and warrants of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the state, municipal utility district, or school district of this state.

(e) Any of the following:

(1) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended (12 U.S.C. Sec. 2001 et seq.).

(2) Debentures, consolidated debentures, and other obligations issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended (12 U.S.C. Sec. 2001 et seq.).

(3) Bonds, debentures, and other obligations of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act (12 U.S.C. Sec. 1421 et seq.).

(4) Stocks, bonds, debentures, and other obligations of the Federal National Mortgage Association established under the National Housing Act, as amended (12 U.S.C. Sec. 1701 et seq.).

(5) Bonds of any federal home loan bank established under that act.

(6) Obligations of the Federal Home Loan Mortgage Corporation.

(7) Bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended (16 U.S.C. Sec. 831 et seq.).

(8) Other obligations guaranteed by the Commodity Credit Corporation for the export of California agricultural products under the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. Sec. 714 et seq.).

(9) Bonds, notes, warrants, and other securities not in default that are the direct obligations of the government of a foreign country that the International Monetary Fund lists as an advanced economy and for which the full faith and credit of that country has been pledged for the payment of principal and interest, if the securities are rated investment grade or its equivalent, or better, by a nationally recognized rating organization. Securities eligible for investment pursuant to this subdivision shall satisfy all of the following:

(A) Be United States dollar denominated with a maximum maturity of five years or less, and eligible for purchase and sale within the United States.

(B) The combined par value of all of the investments authorized by this subdivision do not exceed 1 percent of the total par value of Pooled Money Investment Account assets at the time of purchase.

(C) The government of the foreign country issuing the securities shall submit to the federal jurisdiction of the courts of the United States and to the state jurisdiction of the California courts when disputes arise related to the investments.

(f) (1) Commercial paper of "prime" quality as defined by a nationally recognized organization that rates these securities, if the commercial paper is issued by a federally or state-chartered bank or a state-licensed branch of a foreign bank, corporation, trust, or limited liability company that is approved by the Pooled Money Investment Board as meeting the conditions specified in either subparagraph (A) or subparagraph (B):

(A) Both of the following conditions:

(i) Organized and operating within the United States.

(ii) Having total assets in excess of five hundred million dollars (\$500,000,000).

(B) Both of the following conditions:

(i) Organized within the United States as a federally or state-chartered bank or a state-licensed branch of a foreign bank, special purpose corporation, trust, or limited liability company.

(ii) Having programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond.

(2) A purchase of eligible commercial paper may not do any of the following:

(A) Exceed 270 days maturity.

(B) Represent more than 10 percent of the outstanding paper of an issuing federally or state-chartered bank or a state-licensed branch of a foreign bank, corporation, trust, or limited liability company.

(C) Exceed 30 percent of the resources of an investment program.

(3) At the request of the Pooled Money Investment Board, an investment made pursuant to this subdivision shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, that are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a federally or state-chartered bank or savings and loan association, a state-licensed branch of a foreign bank, or a federally or state-chartered credit union. For the purposes of this section, negotiable certificates of deposits are not subject to Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Bank loans and obligations guaranteed by the Export-Import Bank of the United States.

(k) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1001 et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. Sec. 1087-2).

(l) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank for Puerto Rico.

(m) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

(n) Negotiable Order of Withdrawal Accounts (NOW Accounts), invested in accordance with Chapter 4 (commencing with Section 16500).

(o) Shares of any money market mutual fund subject to registration by, and under the regulatory authority of, the United States Securities and Exchange Commission, provided that all of the following conditions are met:

(1) The money market mutual fund invests in securities and obligations described in one or more of the following: subdivision (a), (b), or (e) of this section or repurchase agreements or reverse repurchase agreements described in Section 16480.4.

(2) The financial institution issuing shares of the money market mutual fund has at least five years of experience investing in the types of securities and obligations being purchased by the state and has assets under management in the money market mutual fund in excess of ten billion dollars (\$10,000,000,000).

(3) The money market mutual fund shall have attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations, as defined by the United States Securities and Exchange Commission.

(4) The financial institution shall not impose a commission on the purchase or sale of fund shares by the state.

(5) The state shall not purchase more than 10 percent of a money market mutual fund's total assets.

(6) The state shall not invest more than 10 percent of the pool's funds in any single money market mutual fund meeting the requirements of this subdivision.

SEC. 2. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as

those loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) (42 U.S.C. Sec. 1441 et seq.) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) (42 U.S.C. Sec. 1437 et seq.) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act (Public Law 64-158), as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933 (Public Law 73-75), as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act (12 U.S.C. Sec. 1421 et seq.), bonds, debentures, and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act of 1934 (Public Law 73-479) as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970 (Public Law 91-351), and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831), as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(A) Any promissory note on which any payment is more than 90 days past due,

(B) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(C) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank for Puerto Rico.

(j) Any municipal securities, as defined by Section 3(a)(29) of the Securities Exchange Act of 1934, (15 U.S.C. 78, as amended), which are issued by this state or any local agency thereof.

(k) Letters of credit issued by the Federal Home Loan Bank of San Francisco, which shall be in the form and shall contain provisions as the Treasurer may prescribe, and shall include the following terms:

(1) The Treasurer shall be the beneficiary of the letter of credit.

(2) The letter of credit shall be clean and irrevocable, and shall provide that the Treasurer may draw upon it up to the total amount in the event of the failure of the bank or if the bank refuses to permit the withdrawal of funds by the Treasurer or any other authorized state officer or employee.

(3) Notwithstanding Section 16521, the letter of credit shall at all times be an amount in value of at least 100 percent of the amount deposited with the bank.

(l) An eligible bank that has been selected by the Treasurer for the safekeeping of money belonging to, or in the custody of, the state, and that has its headquarters located outside of the state, may submit letters of credit that are drawn on its regional federal home loan bank as security, solely for deposits maintained in the Treasurer's demand accounts, and subject to the terms set forth in paragraphs (1) to (3), inclusive, of subdivision (k).

SEC. 3. Section 16612 of the Government Code is amended to read:

16612. The following securities may be received as security for deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949 (42 U.S.C. Sec. 1441 et seq.)) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937, (12 U.S.C. Sec. 1437 et seq.)) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue on tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16611, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the savings and loan association;

(2) The Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(A) Any promissory note on which any payment is more than 90 days past due,

(B) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(C) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

(i) Letters of credit issued by the Federal Home Loan Bank of San Francisco, which shall be in the form and shall contain provisions as the Treasurer may prescribe, and shall include the following terms:

(1) The Treasurer shall be the beneficiary of the letter of credit.

(2) The letter of credit shall be clean and irrevocable, and shall provide that the Treasurer may draw upon it up to the total amount in the event of the failure of the savings and loan association or credit union or if the savings and loan association or credit union refuses to permit the withdrawal of funds by the Treasurer or any other authorized state officer or employee.

(3) Notwithstanding Section 16611, the letter of credit shall at all times be in an amount in value of at least 100 percent of the amount deposited with the savings and loan association or credit union.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 16430 of the Government Code proposed by both this bill and Assembly Bill 869. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 16430 of the Government Code, and (3) this bill is enacted after Assembly Bill 869, in which case Section 1 of this bill shall not become operative.