

CHAPTER 427

DEPOSITORIES OF CITY AND VILLAGE FUNDS

427.01 DEPOSIT OF PUBLIC FUNDS.

HISTORY. 1895 c. 8 s. 86; 1903 c. 18; R.L. 1905 s. 774; G.S. 1913 s. 1796; G.S. 1923 s. 1841; M.S. 1927 s. 1841.

This section applies to cities having home rule charters. OAG May 31, 1933.

This section must be construed as a part of a depository bond and the liability of the sureties is limited to the penalty of the bond, and where the bank classes the liability of the sureties becomes absolute, and when they pay the loss they are subrogated to the rights of the obligee, and such right of subrogation cannot be questioned by the treasurer's fidelity sureties. *City of Ortonville v Hahn*, 181 M 271, 232 NW 320.

The village treasurer and his surety on his official bond were not relieved from liability for the money of the village deposited in a bank that failed, for there was no compliance with this section. *Village of Hallock v Pederson*, 189 M 469, 250 NW 4.

In an action on a city treasurer's bond, the court rightly refused to compute and include interest in finding amount unpaid upon a judgment recovered by the city upon the depository bond of a bank, since interest is not recoverable upon a treasurer's bond until demand of payment. *Benson v American Surety Co.* 199 M 119, 271 NW 125.

The *Fergus Falls* city charter, section 27, exempted the sureties on the city treasurer's bond from liability for funds lawfully deposited in a duly designated depository and also the treasurer. *Benson v American Surety Co.* 199 M 119, 271 NW 125.

Where a city treasurer has made deposits in a duly designated depository in excess of the collateral securities given by the bank in lieu of a depository bond, under Laws 1925, Chapter 173, (118.01) and the bank thereafter becomes insolvent, the city may not claim such overdeposit as a preferred claim, for the overdeposit was not forbidden or criminal, since it did not appear that any other depository had been designated where the treasurer might deposit such funds, or that the bank was not considered solvent when such overdeposits were made. *City of Cloquet v Northwestern State Bank*, 172 M 324, 215 NW 174.

Where a statute requires a bond to secure a deposit of public moneys and in an effort to comply with the statute an undertaking rather than a bond is given, the same will be enforced as a common law bond. *Village of Farmington v Reisinger*, 174 M 56, 218 NW 444.

Where a certificate of deposit is taken for village moneys deposited with a bank and is renewed from time to time, the renewal certificates, nothing else appearing, are not payment of the original deposit; and where it is contemplated that the deposit shall be a continuing one, no date being fixed for its payment, the sureties are not released by renewals made without their consent. *Village of Farmington v Reisinger*, 174 M 56, 218 NW 444.

A village cannot deposit its funds in a bank without requiring a bond and at the same time relieve the village officers from liability. OAG Feb. 6, 1933.

A credit union may not be designated as a city depository nor may city funds be invested in the securities thereof. OAG Nov. 21, 1935 (53b).

If no depository of village funds is designated or if the depository does not furnish the necessary security the village treasurer is answerable for any loss. OAG April 3, 1933.

A village treasurer makes deposit in a bank other than that designated by the village council at his peril. OAG Aug. 5, 1936 (140b-6).

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427.02 DEPOSITORIES.

HISTORY. 1895 c. 8 s. 86; 1907 c. 17 s. 1; G.S. 1913 s. 1391; G.S. 1923 s. 1327; M.S. 1927 s. 1327; 1933 c. 179; 1935 c. 124 s. 1; M. Supp. s. 1327.

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is a stockholder, director, and assistant cashier, and a surety on his bond is liable for the money lost through the failure of the bank, notwithstanding a stipulation in the bond relieving the surety from the liability for loss caused by the failure of any bank or other depository, and there is liability under a bond for funds wrongfully deposited during its term, though the bank did not fail until afterwards. *City of Marshall v Gregoire*, 193 M 188, 259 NW 377.

427.03 DUTY OF TREASURER; EXEMPTION FROM LIABILITY.

HISTORY. 1907 c. 17 s. 2; G.S. 1913 s. 1392; G.S. 1923 s. 1328; M.S. 1927 s. 1328.

427.04 FAILURE TO DESIGNATE.

HISTORY. 1907 c. 17 s. 3; G.S. 1913 s. 1393; G.S. 1923 s. 1329; M.S. 1927 s. 1329.

427.05 DUTY OF COUNCIL; INTEREST.

HISTORY. 1907 c. 17 s. 4; G.S. 1913 s. 1394; G.S. 1923 s. 1330; M.S. 1927 s. 1330.

427.06 MONEY, HOW DEPOSITED; CHECKS, HOW DRAWN.

HISTORY. 1907 c. 17 s. 5; G.S. 1913 s. 1395; G.S. 1923 s. 1331; M.S. 1927 s. 1331.

427.07 WITHDRAWAL OF FUNDS.

HISTORY. 1907 c. 17 s. 6; G.S. 1913 s. 1396; G.S. 1923 s. 1332; M.S. 1927 s. 1332.

427.08 DEPOSITORIES OF VILLAGE FUNDS.

HISTORY. 1931 c. 216 s. 1; 1933 c. 62 s. 1; M. Supp. s. 1049-1.

The exemption provided by section 118.10 is not in addition to the \$2,000 provided in this section. OAG March 27, 1934.

Municipal funds may not be deposited in excess of the amount that such deposits are insured under the provisions of the federal reserve act without requiring collateral security. OAG May 31, 1935 (29a-12).

427.09 TREASURER MAY SELECT DEPOSITORY.

HISTORY. 1931 c. 216 s. 2; 1933 c. 62 s. 2; M. Supp. s. 1049-2.

427.10 TREASURER NOT LIABLE, WHEN.

HISTORY. 1931 c. 216 s. 3; 1933 c. 62 s. 3; M. Supp. s. 1049-3.

427.11 INTEREST ON FUNDS.

HISTORY. 1931 c. 216 s. 4; 1933 c. 62 s. 4; M. Supp. s. 1049-4.