

CHAPTER 427

DEPOSITORIES OF CITY AND VILLAGE FUNDS

427.01 DEPOSIT OF PUBLIC FUNDS.

In order to qualify as the depository of village funds it is not mandatory that the bank be a member of the federal deposit insurance corporation. OAG Dec. 3, 1941 (140-B-6).

427.02 DEPOSITORIES.

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 closes its doors the liability of the sureties becomes absolute, and when they pay the loss they are subrogated to the rights of the obligee, and such rights 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 Amer. 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 Amer. 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 L. 1925, c. 173 (section 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 N. W. 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.

Set-off against deposit of municipality's debt to a bank. 18 MLR 472.

427.05 DUTY OF COUNCIL; INTEREST.

Notice to the city treasurer by a depository of a reduction in the interest rate is deemed notice to the city of such reduction. *City of Mpls. v First Nat'l Bank*, 198 M 280, 269 NW 521.