

## CHAPTER 118

### DEPOSITORIES OF PUBLIC FUNDS

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#### 118.005 DESIGNATION, PROTECTION OF DEPOSIT.

Subdivision 1. The governing body of every municipality, as defined in section 118.01, which has the power to receive and disburse funds, shall designate as a depository of the funds such national, insured state banks or thrift institutions as defined in section 51A.02, subdivision 23, as it may deem proper.

Subd. 2. In the event the bank or insured thrift institution selected as a depository is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation the custodian of the funds may deposit an amount not to exceed the maximum amount of insurance on the deposits. In the event it is desired to deposit a greater amount in any bank or thrift institution prior to the deposit the governing body or officer shall require the bank or thrift institution to furnish a bond, executed by a corporate surety company authorized to do business in the state in a sum at least equal to the estimated sum to be deposited in excess of the maximum amount of insurance. In lieu of the bond, the depository shall assign to the custodian of the funds collateral security in accordance with section 118.01.

*History: 1969 c 294 s 1; 1978 c 747 s 4*

#### 118.01 DEPOSITORY BONDS.

Subdivision 1. Any bank, trust company or thrift institution authorized to do business in this state, designated as a depository of funds of a municipality, as provided by law may, in lieu of the corporate or personal surety bond required to be furnished to secure the funds, deposit with the custodian of the funds, the bonds or other interest bearing obligations which are legally authorized investments for savings banks under section 50.14, except as otherwise provided by this subdivision. Notes secured by first mortgages of future maturity, upon which interest is not past due, on improved real estate free from delinquent taxes, within the county wherein the depository is located, or within counties immediately adjoining the county in the state of Minnesota may also be deposited with the custodian of the funds in lieu of the corporate or personal surety bond required to be furnished to secure the funds. Industrial revenue bonds or notes issued pursuant to chapter 474 or similar bonds or notes of other states, territories, or their municipal subdivisions or bonds secured by real estate may not be deposited with the custodian of the funds in fulfilling the requirement of this subdivision.

Subd. 2. The total in amount of the collateral computed at its market value shall be at least ten percent more than the amount of deposit, in excess of any insured portion, which would be permitted if a corporate or personal surety bond were furnished. The depository may at its discretion furnish both a bond and collateral aggregating the required amount.

Subd. 3. Any collateral so deposited shall be accompanied by an assignment thereof to the municipality designating the depository, which assignment shall recite that the depository shall pay over to the treasurer or his order on demand or,

if a time deposit, when due, free of exchange or any other charges, all moneys deposited therein at any time during the period the collateral shall be so deposited and shall pay the interest thereon when due at the agreed rate; and that, in case of any default upon the part of the depository, the governing body of the municipality making the designation shall have full power and authority to sell the collateral, or as much thereof as may be necessary to realize the full amount due the municipality and to pay over any surplus to the depository or its assigns.

Subd. 4. A depository may in its discretion deposit collateral of a value less than the total designation and may from time to time, during the period of its designation, deposit additional collateral and make withdrawals of excess collateral or substitute other collateral for that on deposit or any part thereof. Authority is vested in the treasurer to return the collateral to the depository when the trust so created is terminated and he shall, in the case of a reduction of the deposit, permit the depository to withdraw the excess portion thereof. All interest on the collateral so deposited when collected shall be paid to the depository so long as it is not in default. Before any collateral is deposited with the treasurer it shall first be approved by the same authority that designated the depository, but no such authority shall be necessary for the withdrawal of collateral.

Subd. 5. The closing of a depository shall be deemed a default upon the part of the depository and no demand upon the part of the municipality or its treasurer shall be necessary to establish the default. If a depository closes, any time deposit placed therein shall immediately become due and payable.

Subd. 6. If both bond and collateral are furnished by a depository, all or any part of the collateral may be withdrawn without in any way impairing the full force and effect of the bond unless it contains a provision that the collateral shall not be withdrawn without the consent of the surety thereon. If a corporate surety bond is furnished by a depository, it shall be in a penal sum not to exceed the amount designated as the limit of deposit therein, notwithstanding any other provisions of law to the contrary.

Subd. 7. At no time shall the treasurer maintain a deposit in any depository against collateral in excess of 90 percent of the market value thereof.

Subd. 8. Any provision of law authorizing any municipality to designate banks as depositories shall be construed to include trust companies and thrift institutions authorized to do business.

Subd. 9. All bonds furnished under the provisions of this section shall be approved by the governing body of the municipality designating the depository and shall be filed in the office of the county auditor. All collateral deposited under the provisions of this section shall be approved by the governing body of the municipality and deposited with the treasurer of the municipality, unless the governing body by resolution designates some other place for the safe-keeping of the collateral. The collateral shall not be redeposited in the bank, trust company or thrift institution furnishing it.

Subd. 10. Any depository pledging securities, at any time it deems it advisable or desirable, may substitute obligations of the United States of America for all or any part of the securities pledged. The substituted collateral shall be approved by the governing body of the municipality making the designation at its next official meeting. The substituted securities, at the time of substitution, shall have a market value which, together with the market value of the original securities for which no substitution is made, is at least ten percent more than the amount of deposit, in excess of any insured portion, that would be permitted if a corporate or personal surety bond were furnished. In the event of substitution the holder or custodian of the securities shall, on the same day, forward by registered or certified mail to the public corporation and the depository, a receipt specifically describing and identifying both the substituted securities and those released and returned to the depository.

Subd. 11. "Municipality" for the purpose of this section means a county, city, town, school district, hospital district, public authority, public corporation, public commission, special district, police or salaried firefighter's relief association, volunteer firefighter's relief association, independent nonprofit firefighting corporation having a subsidiary firefighter's relief association, or any retirement association established pursuant to statute or special law holding funds intended to support or pay retirement benefits for employees of a municipality, any other political subdivision, or an agency of the state or of its subdivisions.

**History:** 1925 c 173 s 1; 1929 c 370 s 1; 1933 c 41 s 1; 1957 c 698 s 1; 1961 c 560 s 14; 1963 c 511 s 1; 1967 c 528 s 1; 1969 c 18 s 1; 1969 c 78 s 1; 1969 c 294 s 2; 1973 c 123 art 5 s 7; 1978 c 747 s 5; 1980 c 551 s 2; 1980 c 618 s 1; 1981 c 224 s 30 (1973-1)

### 118.02 EFFECT OF EXISTING CONTRACTS.

Nothing in section 118.01 shall be construed as modifying or impairing any existing contract or obligation, but authority is hereby conferred upon any governing body or other authority authorized to designate depositories to terminate any existing contract with any depository by mutual consent and to make a new designation under the terms hereof for the unexpired period of the designation.

**History:** 1925 c 173 s 2 (1973-2)

**118.03** [Obsolete]

**118.04** [Obsolete]

**118.05** [Repealed, 1976 c 44 s 70]

**118.06** [Repealed, 1943 c 202 s 1]

**118.07** [Repealed, 1943 c 202 s 1]

### 118.08 CERTAIN BANKS MAY BE DEPOSITORIES.

In every case where a bank, which is eligible under the provisions of Laws 1927, Chapter 381, merges or consolidates with another bank under the charter of either, such consolidated bank shall, so long as all taxes levied and assessed against its shares under the laws of this state subsequent to such consolidation are paid as required by law, be eligible to receive deposits of public moneys under Laws 1927, Chapter 381.

**History:** 1929 c 262 (1973-8)

### 118.09 TREASURER TO BE REIMBURSED FOR LOSSES.

Where the treasurer of any town, statutory city, or city of the fourth class shall reimburse the town or city for loss of funds of the town or city on deposit in any depository which becomes insolvent such town or city shall reimburse the treasurer for the money so paid when a majority of the electors voting thereon at the annual town meeting or at any regular or special city election vote so to do; provided, that the notice of the annual meeting or election shall specify that the matter will be considered thereat.

**History:** 1931 c 35; 1931 c 279; 1973 c 123 art 5 s 7; 1978 c 747 s 6 (1973-9)

### 118.10 DEPOSITORIES INSURED UNDER FEDERAL ACT EXCUSED FROM GIVING SECURITY TO EXTENT OF INSURANCE COVERAGE.

No bank or trust company authorized to do a banking business in this state, designated as a depository of state, county, town, school district, hospital district, or county sanitarium commission funds, and cities howsoever organized, as

provided by law, the deposits of which bank or trust company are insured in whole or in part under the provisions of the act of Congress of the United States of June 16, 1933, creating the Federal Deposit Insurance Corporation and the temporary federal deposit insurance fund, shall be required to furnish any corporate or personal surety bond, or deposit any collateral in lieu of bond, to secure such funds, in so far as such funds shall constitute "insured deposit liabilities" of such bank or trust company within the provisions of that act of Congress. Nothing in this section shall be construed to release any bank or trust company from furnishing surety bond or collateral for all deposits in excess of the insurance afforded by the national banking act.

**History:** *Ex1934 c 62 s 1; 1963 c 511 s 2; 1969 c 18 s 2; 1973 c 123 art 5 s 7 (1973-10)*

### **118.11 LIMITATION OF DEPOSITS NOT DEPENDENT ON CAPITAL AND SURPLUS; APPLICATION.**

No designation of a bank, trust company or thrift institution as a depository of state, county, town, city, school district, hospital district, or county sanitarium commission funds and no deposit of the funds in the designated depository shall be limited by the amount of the capital or surplus of the depository, but the authority designating the depository may nevertheless fix the limit of deposit to be made therein and shall require security therefor as provided by law.

This section shall apply to all cities, however organized.

**History:** *1935 c 318 s 1,2; 1963 c 511 s 3; 1969 c 18 s 3; 1973 c 123 art 5 s 7; 1978 c 747 s 7 (1973-12, 13)*

### **118.12 INVESTMENT OF TOWN AND SCHOOL DISTRICT FUNDS.**

When the town board of any town or the school board of any school district in this state, by a unanimous resolution, deem it advisable, such town board or school board may invest such amount of funds in such town or school treasury as will not, in the opinion of such board, be needed by such town or school district during the fiscal year, in any of the bonds of any county, city, town, school district, drainage or other district created pursuant to law for public purposes in Minnesota, Iowa, Wisconsin, and North and South Dakota, or in bonds of the United States of America, or in the bonds of any city, county, town, school district, drainage or other district created pursuant to law for public purposes in the United States, containing at least 3,500 inhabitants, provided that the total bonded indebtedness of any such municipality or district shall not exceed ten percent of its assessed valuation.

**History:** *1937 c 250 s 1; 1943 c 77 s 1; 1973 c 123 art 5 s 7 (1973-14)*

### **118.13 DEPOSIT OF SECURITIES.**

Any town board or school district board investing such surplus funds in such authorized securities as provided in section 118.12 shall deposit such securities for safe-keeping with the county treasurer of the county wherein such town or school district is located or with any bank maintaining a safe-keeping department. Such county treasurer or bank shall give a receipt for each and all of such securities to the town board or school district board, as the case may be, and such county treasurer or bank shall keep such securities for safe-keeping until such time as such town board or school district board shall adopt a resolution requesting the county treasurer or bank to turn such securities or any of them over to the treasurer of such town or school district.

**History:** *1937 c 250 s 2; 1953 c 567 s 1 (1973-15)*

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### 118.14 EXCLUSION OF INVESTED FUNDS FROM BOND COVERAGE.

The funds invested in such securities and deposited by the town board or school board, as provided in section 118.13, shall not be included within the amount of money for which the town treasurer or school treasurer is required by law to give a bond to the town or school district.

**History:** 1937 c 250 s 3; 1953 c 567 s 2 (1973-16)

**118.15** [Repealed, 1967 c 479 s 1,2]

### 118.16 FAILURE TO PAY SALES AND USE TAXES.

Notwithstanding any law or regulation to the contrary, no banking or thrift institution shall act as a depository for any public funds if the banking or thrift institution does not pay sales and use taxes pursuant to chapter 297A to the state of Minnesota.

**History:** 1969 c 303 s 1; 1978 c 747 s 8

**118.17** [Repealed, 1978 c 747 s 9]