

## 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 54, as it may deem proper. The governing body may authorize the treasurer or chief financial officer to exercise the powers of the governing body in designating a depository of the funds.

For purposes of this chapter, a credit union is a thrift institution.

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, or is insured by the national credit union administration, 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; 1985 c 239 s 1; 1985 c 292 s 8; 1988 c 666 s 74*

**118.01 DEPOSITORY BONDS AND COLLATERAL.**

Subdivision 1. Any bank, trust company or thrift institution authorized to do business in this state may, in lieu of the corporate or personal surety bond required to be furnished to secure deposited funds, deposit with the custodian of the funds as collateral security: (1) certificates of deposit that are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; (2) 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; (3) obligations which are legally authorized investments for debt service funds under section 475.66, subdivision 3; and (4) qualified state or local government obligations acceptable to the treasurer or chief financial officer. Qualified obligations must be general obligations rated "A" or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

Subd. 2. Except for notes secured by first mortgages of future maturity, the total in amount of the collateral computed at its market value shall be at least ten percent more than the amount on deposit at the close of the business day, in excess of any insured portion, which would be permitted if a corporate or personal surety bond were furnished. The total amount of collateral consisting of notes secured by first mortgages of future maturity computed at its market value shall be at least 40 percent more than

the amount on deposit at the close of the business day, in excess of any insured portion, which would be permitted if a corporate or personal surety bond were furnished. The depository may 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 from the depository. The assignment shall recite that the depository shall pay over to the treasurer or chief financial officer on demand, free of exchange or any other charges, except for early withdrawal penalties on time deposits, all money 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 or the treasurer or chief financial officer may 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 make withdrawals of excess collateral or substitute other collateral, as defined in subdivision 1, on receipt by the municipality of written notice from the depository. Authority is vested in the treasurer to return the collateral to the depository. All interest on the collateral so deposited shall be paid to the depository so long as it is not in default.

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

Subd. 6. All collateral shall be deposited with the treasurer or chief financial officer of the municipality or placed in safekeeping for the municipality in a financial institution approved by the governing body of the municipality or the treasurer or chief financial officer, if approval authority is designated to the treasurer or chief financial officer. The collateral shall not be redeposited in the bank, trust company or thrift institution furnishing it.

Subd. 7. "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:** (1973-1) 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; 1983 c 91 s 1; 1985 c 239 s 2; 1989 c 166 s 28

#### 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:** (1973-2) 1925 c 173 s 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: (1973-8) 1929 c 262*

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

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

**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: (1973-12, 13) 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*

**118.12 INVESTMENT OF TOWN FUNDS.**

When the town board of any town in this state, by a unanimous resolution, deem it advisable, such town board may invest such amount of funds in such town treasury as will not, in the opinion of such board, be needed by such town 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 value, if not located in Minnesota, or 2.5 percent of its taxable market value, if located in Minnesota.

**History:** (1973-14) 1937 c 250 s 1; 1943 c 77 s 1; 1973 c 123 art 5 s 7; 1987 c 398 art 7 s 1; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 480 art 9 s 4

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

Any town board investing such surplus funds in such authorized securities as provided in section 118.12 shall deposit such securities for safekeeping with the county treasurer of the county wherein such town is located or with any bank maintaining a safekeeping department. Such county treasurer or bank shall give a receipt for each and all of such securities to the town board, as the case may be, and such county treasurer or bank shall keep such securities for safekeeping until such time as such town 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.

**History:** (1973-15) 1937 c 250 s 2; 1953 c 567 s 1; 1987 c 398 art 7 s 2

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

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

**History:** (1973-16) 1937 c 250 s 3; 1953 c 567 s 2; 1987 c 398 art 7 s 3

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

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

Notwithstanding any law or rule 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; 1985 c 248 s 70

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