

CHAPTER 118

DEPOSITORIES OF PUBLIC FUNDS

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118.005 DESIGNATION; PROTECTION OF DEPOSIT. Subdivision 1. Except as otherwise provided by law, the governing body of every public authority, public corporation, public commission, special district, or other political subdivision or agency of the state, or any of its subdivisions which has the power to receive and disburse funds, shall designate as a depository of such funds such national or state banks as it may deem proper.

Subd. 2. In the event the bank selected as a depository is a member of the Federal Deposit Insurance Corporation the custodian of such funds may deposit an amount not to exceed the maximum amount of insurance on such deposits. In the event it is desired to deposit a greater amount in any bank, prior to such deposit the governing body or officer shall require the bank 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 such bond, the depository shall assign to the custodian of such funds collateral security in accordance with section 118.01.

[1969 c 294 s 1]

118.01 DEPOSITORY BONDS. Any bank or trust company authorized to do a banking business in this state, designated as a depository of funds of county, city, village, borough, town, school district, hospital district, public authority, public corporation, public commission, special district, other political subdivision, or agency of the state or of its subdivisions, as provided by law may, in lieu of the corporate or personal surety bond required to be furnished to secure such funds, deposit with the custodian of such funds, such bonds, certificates of indebtedness, or warrants, except bonds secured by real estate, as are legally authorized investments for savings banks under the laws of the state, or the bonds of any of the insular possessions of the United States, or the bonds of any state, or its agency, the payment of the principal and interest of which, or either, is provided for otherwise than by direct taxation, or 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 bank or trust company is located, or within counties immediately adjoining such county in the state of Minnesota. The total in amount of such collateral computed at its market value shall be at least ten percent more than the limit of deposit which would be permitted if a corporate or personal surety bond was furnished. The depository may at its discretion furnish both a bond and collateral aggregating the required amount. Any collateral so deposited shall be accompanied by an assignment thereof to the municipality designating such depository, which assignment shall recite that such 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 such collateral shall be so deposited and to 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 such 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. 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. Author-

ity 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. 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 such default. If a depository shall close, any time deposit placed therein shall immediately become due and payable. 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 shall contain 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. At no time shall the treasurer maintain a deposit in any depository against collateral in excess of 90 percent of the market value thereof. Any provision of law authorizing any hospital district, municipality to designate banks as depositories shall be construed to include trust companies authorized to do a banking business. All bonds furnished under the provisions of this section shall be approved by the governing body of the municipality making such designation and filed in the office of the county auditor as provided by section 124.05, and all collateral deposited under the provisions of this section shall be approved by the governing body of the municipality making such designation and after such approval deposited with the treasurer of such municipality, unless the governing body of such municipality shall by resolution fix and determine some other place for the safekeeping of such collateral. Such collateral shall not be re-deposited in the bank or trust company furnishing the same.

Any banking corporation pledging such 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, except that no such banking corporation shall substitute obligations of the United States which mature within one year from the date such obligations are first considered as a part of the bank's reserve and which reserves are required by Minnesota Statutes 1967, Section 48.22. The collateral so substituted shall be approved by the governing body of the hospital district, municipality making such designation at its next official meeting.

Such securities so substituted shall, at the time of substitution, have a market value sufficient, together with the market value of the original securities for which no substitution is made, to equal or exceed \$110 for every \$100 of public deposits.

In the event of such 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 bank, a receipt specifically describing and identifying both the securities so substituted and those released and returned to the depository bank.

"Municipality" for the purpose of this section means county, city, village, borough, town, school district, hospital district, public authority, public corporation, public commission, special district, other political subdivision, or agency of the state or of its subdivisions.

[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] (1973-1)

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.

[1925 c 173 s 2] (1973-2)

118.03, 118.04 [Obsolete]

118.05 DEPOSITORIES IN CITIES OF THE FIRST CLASS; SECURITIES IN LIEU OF BONDS. The common council of any city in this state, including any city operating under a home rule charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, having a population of more than 50,000, may, when any bank authorized to do business in this state shall be designated as

provided by law as a depository of the moneys of such city, in lieu of a corporate or personal bond provided by law to secure such deposit and in addition to any bonds or securities which now by law may be substituted in lieu of such corporate or personal bond, furnish or deposit with the city treasurer of such city, or officer having the custody of the moneys of such city, bonds of the United States government in an amount equal to the maximum amount of money at any time to be deposited with such bank; provided, that such bonds must have a market value of at least par, be approved by the common council or city council of such city, and be accompanied by proper assignment, to the end that such depository so depositing and assigning such securities shall and will safely keep and pay over to the city treasurer, or officer having the custody of the moneys of such city, or his order, on demand, free of exchange, all moneys deposited therein at any time while such bonds shall be so deposited, with interest thereon at the rate agreed upon; and, provided, that, in case of default on the part of such depository, the common council or city council of such city shall have full power and authority to sell such bonds or so much thereof as may be necessary to realize the full amount of funds so deposited in such depository together with interest thereon and to pay the balance, or over-plus, if any, to the depository entitled thereto. Authority is given to the treasurer, or officer having the custody of the moneys of such city, to return these bonds to the depositor so depositing them when the trust so created is terminated and to exchange, upon application, any other bonds of the United States for the bonds so deposited of equal value of any of the bonds herein permitted to be deposited.

The interest on such bonds so deposited and furnished shall when paid be turned over to the bank so depositing the same so long as it is not in default.

[1925 c. 202] (1973-5)

118.06, 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.

[1929 c. 262] (1973-8)

118.09 TREASURER TO BE REIMBURSED FOR LOSSES. Where the treasurer of any town, village, or city of the fourth class shall reimburse such town, village, or city for loss of funds of the town, village, or city on deposit in any bank which becomes insolvent such town, village, 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 village or city election vote so to do; provided, that the notice of such annual meeting or election shall specify that such matter will be considered thereat.

[1931 c. 35; 1931 c. 279] (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, village, borough, town, school district, hospital district, or county sanatorium 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.

[Ex1934 c 62 s 1; 1963 c 511 s 2; 1969 c 18 s 2] (1973-10)

118.11 LIMITATION OF DEPOSITS NOT DEPENDENT ON CAPITAL AND SURPLUS; APPLICATION. No designation of a bank or trust company as a depository of state, county, town, city, village, borough, school district, hospital district, or county sanatorium commission funds and no deposit of such funds in

such designated depository shall be limited by the amount of the capital or surplus of such depository, but the authority designating such 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, villages, and boroughs, however organized.

[1935 c 318 s 1, 2; 1963 c 511 s 3; 1969 c 18 s 3] (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, village, 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, village, 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.

[1937 c. 250 s. 1; 1943 c. 77 s. 1] (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.

[1937 c 250 s 2; 1953 c 567 s 1] (1973-15)

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.

[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 institution shall act as a depository for any public funds if such banking institution does not pay sales and use taxes pursuant to chapter 297A to the state of Minnesota.

[1969 c 303 s 1]