

CHAPTER 59

CERTAIN INVESTMENT COMPANIES

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NOTE: "Commissioner" means commissioner of banks. See Sections 46.03 and 46.04.

59.01 DEFINITIONS. Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall have the meanings ascribed to them.

Subd. 2. "Company" means a face amount certificate company as defined by the Act of the Congress of the United States of America known and cited as the "Investment Company Act of 1940," which has certificates outstanding, but to which company subsection (c) of section 28 of said Act, relating to a deposit of investments, does not apply, and which company is or has been authorized to do business in the State of Minnesota pursuant to sections 54.26 to 54.29.

Subd. 3. "Treasurer" means the treasurer of the state of Minnesota in his official capacity.

Subd. 4. "Commissioner" means the commissioner of banks of the state of Minnesota in his official capacity.

Subd. 5. "Liability" wherever used in respect of any certificate or certificates as of any time means the then amount which the company is obligated under the provisions of such certificate or certificates to pay in cash upon the surrender and cancelation thereof, but if any certificate does not expressly provide for deducting the amount of any loan or loans made upon the security thereof, "liability" with respect of such certificate shall mean the amount the company is obligated to pay under the provisions thereof upon the surrender and cancelation of such certificate, less the amount of any such loan or loans.

Subd. 6. "Assets" means cash and investment of the kind made eligible for deposit by the provisions of this chapter.

Subd. 7. "Value" when used in respect of any asset or assets means the value of such asset or assets, evaluated as provided by this chapter.

Subd. 8. "Certificate" means any certificate, investment contract or other security which represents an obligation on the part of the company to pay a stated or determinable sum or sums at a fixed or determinable date or dates more than 24 months after the date of issuance, in consideration of the payment of periodic instalments of a stated or determinable amount, or any security which represents a similar obligation of the company, the consideration for which was the payment of a single lump sum.

Subd. 9. "Investment Company Act" means that certain Act of the Congress of the United States of America, known and cited as the "Investment Company Act of 1940," as heretofore or hereafter amended.

Subd. 10. "National Housing Act" means that certain Act of the Congress of the United States of America, known and cited as the "National Housing Act," as heretofore or hereafter amended.

Subd. 11. "Servicemen's Readjustment Act" means that certain Act of the Congress of the United States of America, known and cited as "Servicemen's Readjustment Act of 1944," as heretofore or hereafter amended.

Subd. 12. "Mortgage" shall include a trust deed, deed of trust, loan deed or other similar security instrument.

[1943 c 591 s 1; 1949 c 539 s 1]

59.02 DEPOSIT OF SECURITIES. Any company may, at its option, deposit and maintain with the treasurer assets as collateral security for the payment by it of its liability under the certificates to be secured thereby as specified in section 59.03; provided that any company not organized under the laws of the state of Minnesota may deposit and maintain with the treasurer assets as collateral security only for the payment of its liability under certificates issued to or held by residents of the state of Minnesota.

If any company elects to make a deposit as herein authorized, in respect of such company the following provisions shall be applicable.

[1943 c. 591 s. 2]

59.03 AMOUNT OF DEPOSIT. Subdivision 1. The company, if organized under the laws of the state of Minnesota, shall, subject to the provisions hereof, deposit and maintain with the treasurer from time to time as collateral security, assets of the kind eligible for deposit under the provisions of this chapter, having an aggregate value at all times, evaluated as provided in this chapter, at least equal to 100 percent of its then liability on all certificates outstanding in the United States, except as provided in subdivisions 2 and 3.

Subd. 2. If the company is at any time maintaining a separate deposit of assets in respect of certificates liability as required by the statute of any state or by an order, regulation or requirement of any state or of any official or agency thereof, or otherwise, no assets shall be deposited or maintained with the treasurer hereunder in respect of the company's liability under the certificates in respect of which such separate deposit is then being maintained, except in respect of the excess of the aggregate of the company's liability under such certificates over the value of the assets then being maintained in such separate deposit, evaluated as provided in this chapter.

Subd. 3. If the company at any time has conveyed any real estate eligible for maintenance under the provisions of the certificate secured by the deposit herein authorized, or any thereof, acquired through the foreclosure of any mortgage, or by conveyance in lieu of such foreclosure, to a corporate trustee or trustees as security for the payment of its liability under the certificates secured by the deposit with the treasurer hereunder, under an agreement or agreements approved by the commissioner, the amount of the assets required to be maintained with the treasurer under subdivision 1 shall be reduced by the value of real estate held from time to time by such trustee or trustees, evaluated at the amount of the unpaid principal of the loan at the date of such foreclosure sale or of such conveyance, plus the amount of any subsequent capital expenditures thereon as made from time to time, less depreciation. Real estate shall not be eligible as security for the payment of the company's liability on the certificates secured hereunder except as provided in this subdivision and upon written authorization by the commissioner.

Subd. 4. The company, if not organized under the laws of the state of Minnesota, shall, subject to the provisions hereof, deposit and maintain with the treasurer from time to time as collateral security, assets of the kind eligible for deposit under the provisions of the chapter, having an aggregate value at all times, evaluated as provided in this chapter, at least equal to 100 percent of its then liability on all certificates issued to or held by residents of the state of Minnesota.

[1943 c 591 s 3; 1949 c 539 s 2]

59.04 SECURITIES ELIGIBLE FOR DEPOSIT. Except as otherwise provided in this chapter, assets deposited and maintained under section 59.03 shall be cash and investments in first mortgages on improved real estate, including any first mortgage executed by a subsidiary of the company upon real estate acquired by such subsidiary or by the company and conveyed to the subsidiary, through the foreclosure of any mortgage owned by the company or in settlement or satisfaction, in full or in part, of any pre-existing obligation owing to the company or in exchange for any real estate so acquired, and securing an obligation of the subsidiary not in excess of the unpaid balance of the defaulted loan at the time of the foreclosure sale, or of the conveyance in lieu of foreclosure, or of the amount at which such real estate was taken in the settlement or satisfaction of the pre-existing obligation or in the exchange, as the case may be, plus any subsequent capital expenditures made thereon, less depreciation, provided, however, no such mortgage shall be deposited with the treasurer unless first authorized by the commissioner; in second mortgages if the entire amount of the loan secured thereby is guaranteed, or is eligible for guaranty, under the provisions of the Servicemen's Readjustment Act and the first mortgage

is maintained on deposit with such second mortgage; in contracts for deed arising out of a sale or exchange of real estate owned by the company; in government bonds, state bonds, municipal bonds, obligations issued or guaranteed in whole or in part by the United States Government, or by a government chartered institution or agency and/or in assets of the kind which life insurance companies were permitted by the laws of the State of New York as of January 1, 1949, to acquire or hold, or any of them, and such other assets, including second mortgages, if the entire amount of the loan secured thereby is guaranteed or is eligible for guaranty, under the provisions of the Servicemen's Readjustment Act, though the first mortgage is not maintained on deposit, as the commissioner may approve as eligible for such purposes.

[1943 c 591 s 4; 1949 c 539 s 3]

59.05 VALUATION OF SECURITIES. Assets deposited and maintained under section 59.03, for the purpose of determining compliance therewith, except as otherwise provided in this chapter, shall be valued as follows:

Each bond, debenture and other evidence of indebtedness of like kind, acquired by the company by purchase or origination and not in default, whether amply secured or not, if purchased or so originated at par, from time to time at the then par value, and if purchased or so originated at a cost above or below par, on the basis of the purchase price or origination cost adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase or origination was made, provided that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, and, provided further, that the commissioner shall have full discretion in determining the method of calculating values according to the foregoing rules, and the word "par" as used in this provision shall mean, as of any particular time, the then unpaid principal balance of such bond, debenture or other evidence of indebtedness; preferred and guaranteed stocks upon which dividends are being currently paid, at the average cost to the company of each issue of such stocks; each contract for deed at the unpaid balance of the purchase price, each mortgage at the unpaid balance of the indebtedness secured thereby; all other assets at their established market value or at their reasonable value if the asset has no established market value.

[1943 c 591 s 5; 1949 c 539 s 4]

59.06 EXCHANGE OF DEPOSITS. Subdivision 1. Assets deposited with the treasurer hereunder may be withdrawn at any time by the company, at its option, whenever other assets eligible for deposit hereunder, of at least equal value are substituted therefor, and assets may be withdrawn without such substitution, at the option of the company, to the extent of any excess over the aggregate amount required to be maintained under section 59.03. In the event of a withdrawal by substitution, the treasurer shall permit the withdrawals of any assets on deposit upon the filing with him of a statement by one of the company's officers or by an employee designated for such purpose in writing filed with the treasurer, stating that the value of the assets to be substituted is at least equal to the value of the assets to be withdrawn; and, in the event of a withdrawal of excess, upon the filing with him of a statement, executed as aforesaid, stating the value of the assets, required by section 59.03 to be maintained does not exceed a stated amount and that the value of the assets on deposit hereunder is not less than a stated amount, the treasurer shall permit a withdrawal of assets of a value not greater than the excess value, if any, of assets on deposit over the amount required to be maintained, as shown by such statement, and the treasurer may conclusively rely upon such statements.

Subd. 2. Upon the withdrawal of any asset deposited with the treasurer as provided in this section, the treasurer shall execute and deliver to the company any and all instruments or documents necessary or appropriate in the premises to revest in the company, or its nominee, such interest as he has therein by reason of the deposit thereof pursuant to this chapter and thereupon such asset shall be discharged from any lien or incumbrance arising from the deposit thereof with the treasurer and the treasurer shall be relieved and discharged from all further liability in respect thereof.

[1943 c. 591 s. 6]

59.07 INCOME COLLECTED BY COMPANY. The company shall be entitled to collect, receive and retain the income from and payments made on any assets maintained with the treasurer, except as herein otherwise expressly provided; pro-

vided that the value of maintained assets shall not at any time be less than the minimum value required to be maintained under section 59.03. Interest coupons, if any, shall be surrendered by the treasurer to the company so long as it shall be entitled to receive such interest hereunder not more than 15 nor less than 5, days prior to their respective maturities.

[1943 c. 591 s. 7]

59.08 TREASURER TO KEEP ASSETS IN VAULT. Subdivision 1. Except as otherwise provided in this chapter, the treasurer shall keep the assets and any documents or papers delivered into his possession under this chapter in the vaults provided by the state for his official use, except that he may keep said assets, documents and papers elsewhere if in his opinion the available space in such vaults now is, or shall hereafter become, inadequate for such purpose, or if for any other reason he shall deem it desirable or expedient so to do; provided (a) if assets consisting of stocks, bonds, debentures or other securities of like kind, payable to bearer or negotiable by delivery, not secured as provided in (b) of this proviso, or cash, are to be kept elsewhere than in the official vaults, the treasurer shall, subject to the approval of the company, rent one or more safe-deposit boxes of any bank, trust company or safe-deposit company under state or federal supervision, in which safe-deposit box or boxes such assets, and any papers or documents relating thereto, shall be kept by him, or he shall, with the company's approval, deposit the same with any such bank or trust company under a safekeeping or custodian agreement between such bank or trust company and himself, and (b) if assets consisting of mortgages or evidences of indebtedness secured by mortgages, deposited with the treasurer, or any assets other than those within the purview of (a) of this proviso, are to be kept elsewhere than in the official vaults, the company, upon the written request of the treasurer, shall provide, subject to the approval thereof by the treasurer, at its own cost and expense, for his use, a vault or vaults equipped with suitable filing cabinets adequate for the purpose, in which such assets, within the purview of (b) of this proviso, and any documents and papers relating to assets coming within the purview of (b) of this proviso delivered into his possession, shall be kept, such vault or vaults to be under the exclusive supervision and control of the treasurer and such employees as he may appoint for the purpose of keeping and administering such deposit. If provision cannot be made for the keeping of any assets to be kept elsewhere than in the official vaults, with approval as herein provided, the treasurer shall then provide such facilities.

Assets, documents, and papers of each company shall be kept by the treasurer segregated from all other assets, documents, and papers in his possession, custody, or control.

Subd. 2. If the company deems it necessary to have possession of any document or paper on deposit with the treasurer, for inspection by the company, or for correction, or for processing for sale, or for recording, obtaining guarantees or insurance or realizing upon such guarantees or insurance, or for any other purpose incident to the protection of the value of such asset, or for the foreclosure, collection or the realization of the proceeds thereof, the treasurer, upon written request therefor by the company as herein provided and upon the giving of a proper receipt therefor, shall loan such document or paper, other than the assignment of a mortgage on deposit, to the company for the purpose or purposes stated in the request but for no other purpose except as hereinafter otherwise provided in this chapter. Such request shall state the purpose or purposes herein specified for which such document or paper is required and that it is required and intended to be used only for such purpose or purposes, and shall be signed and certified by an officer or employee of the company designated in writing for that purpose and filed with the treasurer. After the purpose for which it was borrowed has been accomplished, it shall forthwith be returned to the state treasurer, and if not so returned within 30 days after it was loaned to the company, except as otherwise provided in this chapter in respect of the return thereof or the time when it shall be returned, the asset shall be withdrawn from the deposit, unless the time for its return has been extended as provided in section 59.23, subdivision 2.

[1943 c 591 s 8; 1949 c 539 s 5]

59.09 PURPOSE OF PLEDGED ASSETS. Subdivision 1. Notwithstanding anything in this chapter to the contrary, the maintenance of assets on deposit with the treasurer hereunder by a company organized under the laws of the State of Minnesota shall not vest title thereto in him, but shall constitute a pledge only of

such assets as collateral security for the payment to holders of certificates, residing in the United States, of the cash payments provided in such certificates, as and when the same become due and payable according to the terms and conditions thereof, subject to the provisions of this chapter; provided, however, that the holders of certificates in respect of which a separate deposit is being maintained as specified in section 59.03, subdivision 2, shall be entitled to participate in the deposit maintained hereunder, in case of a general liquidation thereof, only after such separate deposit has been exhausted and after the holders of certificates secured only by the deposit hereunder shall have received from the deposit hereunder a percentage amount upon their certificate obligations equal to the percentage amount received by the holders of certificates in respect of which such separate deposit is maintained from such separate deposit, and shall thereafter participate on an equal percentage basis in the residue of the deposit hereunder with certificate holders secured only by the deposit hereunder.

Subd. 2. Assets maintained with the treasurer hereunder by a company not organized under the laws of the state of Minnesota, shall constitute a pledge only of such assets as collateral security for the payment to holders of certificates, issued to or held by residents of the state of Minnesota, of the cash payments provided in such certificates, as and when the same become due and payable according to the terms and conditions thereof, subject to the provisions of this chapter.

Subd. 3. The company shall file specimen copies of all certificates referred to in section 59.03, subdivisions 1 or 4, as the case may be, with the treasurer, but no certificate shall be excluded from the security of the deposit by reason of the failure to file a specimen thereof or by reason of having attached thereto or included therein riders, endorsements or other slight modifications or additional provisions.

[1943 c. 591 s 9; 1949 c 539 s 6]

59.10 RECORD MAINTAINED. The treasurer shall maintain a record in ledger form of the assets maintained with him by the company, in which shall be credited assets as and when deposited with him from time to time and in which shall be charged assets as and when withdrawn by the company from time to time, and the company shall furnish the treasurer with all information necessary and appropriate to enable him to maintain such ledger.

[1943 c. 591 s. 10]

59.11 DEPOSIT OF MORTGAGES; TRUST DEEDS. Subdivision 1. A mortgage shall be deposited with the treasurer, for the purposes of section 59.03, by delivery of the same to the treasurer, except as otherwise provided in this section, together with the following instruments:

(1) Any note or other instrument evidencing the obligation, secured thereby, endorsed substantially as follows: "The within instrument is hereby assigned to the treasurer of the State of Minnesota, his successors or assigns under and pursuant to the provisions of Chapter 59, Minnesota Statutes 1945."

If the mortgage is a second lien and the entire amount of the loan secured thereby is guaranteed, or is eligible for such guaranty, under the provisions of the Servicemen's Readjustment Act and the regulations applicable thereto, the note or other instrument evidencing the obligation secured thereby, shall be either endorsed by the Administrator of Veterans' Affairs evidencing such guaranty of the loan or be accompanied by a certificate of guaranty as provided by said act or said regulations, and there shall be furnished therewith, unless the same is then on file, evidence that the first mortgage deposited therewith or then being maintained on deposit, is insured under the provisions of the "National Housing Act," and the regulations applicable thereto, by an endorsement upon the note or other instrument evidencing the obligation, secured thereby.

The loan shall be deemed eligible for such guaranty if the mortgage is accompanied by a certificate of the company stating that the note is to be forwarded, or has been forwarded and not returned, to said Administrator for the purpose of procuring such endorsement or certificate of guaranty, and that all conditions of the Servicemen's Readjustment Act and of the rules, regulations and requirements of the administrator, adopted pursuant thereto, prerequisite to such guaranty have been met.

(2) An assignment of the mortgage in blank.

(3) An attorney's opinion as to title stating, or a certificate or policy issued by a title insurance company insuring, or a mortgagee's duplicate of the Torrens title certificate showing, as of the date thereof, such mortgage to be a first lien upon the real estate described therein or a second lien subject only to a specified mortgage.

(4) Whenever the delivery of any mortgage to the treasurer is required by the foregoing provisions of this section and such mortgage is on file pursuant to or is required to be filed with a public officer by the statutes of any state, a copy of such mortgage, duly certified by the officer with whom the original is filed to be a true copy thereof, may be delivered in lieu of such original instrument.

Provided, that whenever the company is making a loan for the improvement of real estate which loan is to be secured by a mortgage, and the moneys to be loaned and a duly executed mortgage have been deposited in escrow with a bank, or trust company, under state or federal supervision and regulation, the moneys to be disbursed by such bank or trust company as the work progresses, the moneys remaining from time to time in possession of such bank or trust company, and the mortgage shall be deemed deposited with the treasurer for the purposes of section 59.03, upon the delivery to him of an assignment of said moneys and of said mortgage, subject to the escrow agreement, together with a receipt of the bank or trust company duly acknowledging that it has such moneys and the mortgage in its possession, without the delivery of the moneys and the mortgage to the treasurer. Any mortgage securing moneys loaned or to be loaned for or in connection with the improvement of real estate, or for or in connection with the purchase and improvement of real estate, but excluding any mortgage securing a loan solely for the purchase of unimproved real estate, where such moneys are to be disbursed for said purpose or purposes and/or as the work progresses, if duly recorded or deposited in escrow, shall be deemed deposited with the treasurer for the purpose of section 59.03 upon delivery to him of an assignment thereof, without delivery of such mortgage or other accompanying instruments specified in this section. Upon the consummation of any such loan, the mortgage, duly recorded, together with such other accompanying instruments specified in this section as are then available for delivery, shall be delivered to the treasurer subject to the provisions of the following provision. Such mortgage shall be valued from time to time pending the consummation of the loan at the then amount of money disbursed on said loan, as shown by statements to be filed with the treasurer from time to time by an executive officer of the company or some employee of the company, designated by the company in writing filed with the treasurer; and

Provided, further, that any mortgage filed or to be filed for record but not yet returned and/or in respect of which it is proposed to procure a certificate or policy issued by a title insurance company, shall be deemed deposited with the treasurer for the purposes of section 59.03 upon delivering to him an assignment thereof, together with such of the accompanying papers specified in this section as are then available for delivery, without the delivery of such mortgage. Upon the completion of such recordation and return of the mortgage and/or the procurement of such certificate or policy, or in respect of a construction loan, upon the consummation of the loan, such mortgage shall be forthwith delivered to the treasurer, together with such other withheld instruments as are then available for delivery.

If any note is to be forwarded, or has been so forwarded and has not been returned, to the Federal Housing Commissioner for the purpose of obtaining insurance under the Federal Housing Act or evidence of such insurance or to the Administrator of Veterans' Affairs for the purpose of either being endorsed with evidence of the guaranty or of obtaining a certificate of guaranty, under the Servicemen's Readjustment Act, the mortgage securing the same may be deposited without the delivery of such note, and if the note has been delivered to the treasurer and is desired for the purpose of being so forwarded, it may be borrowed from the treasurer as provided in Section 59.08, Subdivision 2. Any note so withheld or borrowed need not be delivered or redelivered, as the case may be, to the treasurer until its return, but shall be delivered or redelivered by the company forthwith upon its receipt.

If any mortgage or other instrument, document or paper is withheld from delivery to the treasurer as provided in this chapter, the company shall furnish the treasurer with a statement, stating the reason for the nondelivery thereof, and if forwarded for recording, with a receipt of the recording officer or a statement as to why such receipt cannot be so furnished.

If any mortgage or any other instrument, document or paper withheld as provided in this chapter is not furnished to the treasurer within 180 days after the asset is deposited, except as otherwise provided in this chapter in respect of the return thereof or the time when it shall be returned, the deposited asset shall be withdrawn, unless the time for furnishing the same is extended as provided in section 59.23.

Subd. 2. For the purpose of subdivision 1, paragraph (3), and of section 59.04, a mortgage shall not be deemed to be other than a first lien or a second lien, as the case may be, upon the property covered thereby by reasons of the existence of taxes or assessments that are not delinquent more than six months, instruments creating or reserving mineral, oil or timber rights, rights of way, joint highways, sewer rights, rights in walls, customary easements for public utilities, nor by reason of building or use restrictions, nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner, nor by any slight encroachment, restrictive covenant, easement right or reservation which does not materially impair the value of the property as security; provided, that a tax upon real estate, though delinquent for six months or more, shall not render the mortgage upon such real estate ineligible for deposit hereunder, if the validity of such tax or the amount thereof is in litigation, and a deposit for the payment thereof when the validity or amount has been determined, has been made by the person or corporation under duty of paying the same with the company or with any other person or corporation.

[1943 c 591 s 11; 1947 c 313 s 1; 1949 c 539 s 7]

59.12 STATEMENT TO ACCOMPANY ASSETS DEPOSITED. Subdivision 1. Any asset deposited with the treasurer shall be accompanied by a statement that in the opinion of a person authorized by the company to make such statement such asset, identifying it, is of a kind authorized to be deposited under the provisions of this chapter, and giving the value thereof, evaluated as provided in this chapter.

Subd. 2. A company organized under the laws of the State of Minnesota shall file with the commissioner and the treasurer, at the time of making the initial deposit and thereafter within 90 days after the last day of June and the last day of December of each year, statements showing respectively as of said last day of June and the last day of December, the following:

(1) The aggregate value of the assets, evaluated in accordance with the provisions of this chapter, maintained with the treasurer hereunder, except that the statement accompanying the initial deposit shall be in respect of the value of the assets then being deposited, evaluated as aforesaid.

(2) The aggregate amount of the company's liability upon all outstanding certificates in the United States, shown by states.

(3) The aggregate value of the assets, evaluated in accordance with the provisions hereof, maintained on deposit or deposits as referred to in Section 59.03, Subdivision 2, shown by deposits.

(4) The aggregate value of the assets conveyed under an agreement or agreements as specified in Section 59.03, Subdivision 3, if any, evaluated as herein provided.

Subd. 3. A company not organized under the laws of the state of Minnesota, shall at the time of making the initial deposit and thereafter on or before the 30th days of January and July of each year, file with the commissioner the following:

(1) A statement showing the aggregate value of the assets, calculated as of the last day of the preceding month, evaluated in accordance with the provisions of this chapter, maintained with the treasurer hereunder on the last day of said preceding month, except that the statement accompanying the initial deposit shall be in respect of the value of the assets then being deposited, calculated as aforesaid.

(2) A statement showing the aggregate amount of the company's liability, as of the last day of the preceding month, upon all outstanding certificates issued to or held by residents of the state of Minnesota.

Subd. 4. Said statements shall be made by an executive officer or some employee of the company, designated by the company in writing filed with said commissioner, and shall be verified under oath by the person making the same.

Subd. 5. The company shall furnish a copy of the statements specified in this section and of the reports specified in section 59.14, to the supervisory or regula-

tory authorities having administrative jurisdiction of the issuance of certificates of the kind herein mentioned and of deposits in respect thereof, of any state whose resident certificate holders are protected by the deposit maintained hereunder.

Subd. 6. If the statements filed as provided in this section shall at any time show the value of the assets on deposit to be less than the minimum amount required by section 59.03 to be maintained, the company shall deposit additional assets sufficient to comply with the requirements of said section within 30 days after the filing of said statements, and if it shall fail so to do, the company, upon written request thereafter made by the supervisory or regulatory authorities having administrative jurisdiction of the issuance of certificates of the kind herein mentioned and of deposits in respect thereof, of any state whose resident certificate holders are protected in whole or in part by the deposit maintained hereunder, shall mail to each certificate holder residing in such state, within 30 days after receipt of such request, copies of the statements last filed as provided in subdivisions 2 or 3, as the case may be.

[1943 c 591 s 12; 1949 c 539 s 9]

59.13 NOTICE TO TREASURER OF DESIRE TO SELL ASSETS. Subdivision 1. If the company shall notify the treasurer in writing that it desires to sell any asset maintained with him or to exchange the same for other investments eligible in whole or in part for deposit with the treasurer, or to use any cash on deposit to invest in, purchase or acquire, by origination or otherwise, any asset eligible for deposit hereunder, or that the obligation to pay or deliver moneys or property evidenced by any asset maintained with him is to be paid or discharged in full or in part at some place other than the place where such assets are maintained, the treasurer shall forward such asset or cash, as the case may be, to a bank or trust company, under state or federal supervision and regulation, selected by the treasurer in the place where such sale, exchange or payment or investment is to be consummated, or to the bank or trust company specified in the asset, if so specified, for the payment or exchange, together with proper instruments and instructions for the consummation of such sale, exchange or payment in accordance with the directions of the company. The asset to be sold, exchanged or paid or said cash shall continue to be a part of the assets maintained with the treasurer until such sale, exchange or payment or investment is consummated, and upon the consummation thereof, the proceeds of such sale or payment, or the property or investment received in exchange, shall become and constitute a part of the assets maintained with the treasurer so far as the same are eligible, and the treasurer shall require that the same be forthwith transmitted by such bank or trust company to him; provided, that if an unrecorded mortgage is acquired, the treasurer, if requested by the company so to do, shall instruct the bank or trust company to deliver the mortgage to the person or to an agency under state or federal supervision, designated by the company, for the purpose of having the same recorded, and such person or agency shall forthwith file the mortgage with or forward the same to the proper officer for recording. The company shall furnish the treasurer with a receipt of the recording officer or a statement as to why such receipt cannot be furnished, and forthwith deliver the recorded mortgage to the treasurer upon its return. If, as a result of such sale, exchange or payment or investment the amount being maintained with the treasurer will be reduced to an amount less than that required to be maintained with him, the company shall, before or at the time such sale, payment or exchange or investment is consummated, deposit with the treasurer assets so that upon the consummation of said sale, exchange or payment or investment the amount being maintained with him shall meet the requirements of the deposit.

The treasurer shall exercise reasonable care in the selection of the bank or agency for the purposes specified in this subdivision, and, if he has exercised such care in the selection thereof, shall not be liable for the negligence or default of such bank or agent.

Subd. 2. Upon being advised by the company in writing that it has an agreement or commitment with, or is making an offer to, a Federal Agency for the sale to it of any mortgage on deposit with the treasurer, the treasurer shall loan to the company any instrument, document, and/or paper relating to said deposited asset, as the company shall specify in writing, other than the assignment of such mortgage, upon the company giving a proper receipt therefor, for the purpose of enabling the company to process the same as may be required by said agency for submission to it for inspection prior to purchase, and for the further purpose of transmitting the

same, together with any instruments, documents or papers withheld by the company under section 59.11, if any, duly processed, to such Agency for such inspection, and said mortgage shall continue to be on deposit until a release thereof by the treasurer is delivered.

In so forwarding the same to such agency, they shall be accompanied by a letter of transmittal which shall (1) specify the instruments, documents or other papers being transmitted, (2) state that the asset to be purchased is on deposit with the treasurer of the State of Minnesota pursuant to Minnesota Statutes 1945, Chapter 59, as amended, (3) request the agency to acknowledge, upon an enclosed duplicate of such letter, receipt of the items transmitted, and to send the same to the treasurer, (4) state that the company will request the treasurer to forward to a bank or trust company, pursuant to the provisions of Section 59.13, Subdivision 1, a release of such mortgage from the deposit, together with the unrecorded assignment thereof to him, and such other papers in his possession as may be necessary to consummate the sale, with instructions to the bank or trust company to deliver the same to such agency upon receipt by the bank or trust company of the purchase price, and (5) request the agency to return all transmitted instruments, documents and papers to the treasurer if the purchase thereof is rejected or the sale is not consummated, and such letter may include any other matter, not inconsistent with the foregoing requirements, which the treasurer or the company may deem appropriate; provided that if such agency is unwilling to comply with the requests required by items 3 and 5, such requests may thereafter be omitted from the letters. In such event, any receipt issued by the agency to the company shall forthwith be delivered by it to the treasurer. Upon transmitting any document or documents to the agency, a copy of the letter of transmittal shall be forthwith delivered to the treasurer.

Upon the transmission to the agency of any withheld or borrowed instruments, documents or papers, the same may be withheld from delivery to the treasurer until the sale of the mortgage is consummated or rejected. If the sale is consummated, any such withheld and borrowed instruments, documents or papers need not be delivered or redelivered to the treasurer, and if rejected, the time for delivery or redelivery thereof to the treasurer shall be extended until the return thereof by the agency, and if returned to the company instead of to the treasurer, they shall forthwith be delivered to the treasurer.

Subd. 3. If cash is being maintained on deposit hereunder, the treasurer, upon written request of the company as herein provided, shall authorize any bank or trust company, holding said cash under a safekeeping or custodian agreement, to set aside out of such cash on hand not previously set aside, a fund or increase any such existing fund, for the payment of any order or orders issued by the company in making payment on any certificate, which will, according to the company's certified statement to that effect as hereinafter required, reduce by the amount of the order or orders, the liability of the company secured by the deposit.

Such request shall be made out by the company and delivered to the treasurer in duplicate, shall specify the total amount of cash then being maintained hereunder not set aside pursuant to authorization by the treasurer as herein provided, and the total amount of the fund for which the authorization is requested and shall state that only orders which are in payment of certificate liabilities of the company secured by the deposit will be issued against such fund and that payment thereof will reduce such liability in the amount of the order or orders so issued, and, that after the payment of said orders, there will remain on deposit sufficient to meet the requirements of Section 59.03, Subdivision 1, in respect of the company's liability on certificates covered by this deposit, as reduced by the payment thereof. Such orders shall be of a special designed form, shall adequately identify the certificate by number or otherwise in respect of which the payment is being made and shall be used only in making payments as in this subdivision provided which shall be charged against said fund as and when the same are made. If there is sufficient cash remaining on deposit and not previously set aside pursuant to an authorization by the treasurer to meet such request, the treasurer shall endorse on the duplicate thereof an authorization to such bank or trust company to set aside a fund out of said cash for the payment of such orders, and no such orders shall be paid by the bank or trust company out of any moneys maintained on deposit other than the fund so set aside. The amount of the fund so set aside or the balance thereof remaining from time to time after payment of such orders or any thereof, as the case may be, shall continue to be a part of the deposit of assets required by section 59.03 to be main-

tained, and the amount so required to be maintained shall not be reduced by the amount of each such order except as and when the same is paid by the bank or trust company. No withdrawal of cash under section 59.06 or otherwise shall be made by the company from any fund so set aside, but upon written request of the company to the treasurer setting forth that all orders issued against said fund have been paid, canceled, or withdrawn and that no such orders are outstanding against said fund and stating the amount of balance remaining therein, the treasurer shall authorize and direct the bank or trust company holding the same to transfer all cash remaining therein to the general deposit maintained with it hereunder, and upon such transfer said fund shall no longer be maintained by the bank or trust company, except that upon further written request of the company, the treasurer shall authorize a new fund to be set aside for said purposes as hereinbefore provided.

The bank or trust company shall deliver to the company at least monthly all such orders paid by it during the next preceding calendar month, together with a statement of the amount of cash on deposit at the close of the last day of such preceding month, including therein the amount then remaining in the fund or funds set aside as in this subdivision provided, and, on the written request of the company, will deliver orders paid, and not previously delivered, together with a statement with respect to said cash on deposit, as of the close of any specified day. The company shall furnish to the treasurer on or before the 15th day of each month a statement showing the aggregate amount of such orders paid, canceled or withdrawn and the amount thereof issued and outstanding as of the close of the last day of the next preceding month, and, upon the written request of the treasurer, the company shall furnish him forthwith with such information as of the close of any day specified in such request. All company requests and statements herein required or provided for shall be signed and certified by an officer or employee of the company designated in writing by it for that purpose and file with the treasurer. The treasurer may conclusively rely upon such certifications and statements and the bank or trust company may conclusively rely upon such authorization by the treasurer.

[1943 c 591 s 13; 1949 c 539 s 10]

59.14 REPORTS SHOWING DEFAULTS TO BE FILED. Subdivision 1. The company shall file with the commissioner and the treasurer within 90 days after the last day of June and the last day of December of each year, a report showing the defaults, if any, respectively as of said last day of June and of said last day of December, in the payment of principal or interest due upon any bond, debenture, or other similar security and the defaults in the payment of principal or interest, or other default, if any, under any mortgage, then being maintained with the treasurer under section 59.03, provided that no default need be reported which has not continued for 120 days or more. This report shall be made by an executive officer or by an employee of the company designated in writing filed with the commissioner and shall be verified under oath by the person making the same.

A mortgage shall not be deemed to be in default for the purpose of this section if the collection of the debt secured thereby or the foreclosure of such mortgage is prevented by the terms of any applicable law of any state or of the United States, or of any rule, regulation or order made pursuant to such law, or of any executive decree, unless and until such law, rule, regulation, order or decree is declared invalid by final decree of a court of competent jurisdiction, and if any such asset has been withdrawn as provided in this section for collection or foreclosure, and the collection or foreclosure thereof is stayed by order of any court having jurisdiction in the premises, pursuant to any such law, rule, regulation or order, such asset may be redeposited pending the period of such stay.

Subd. 2. If any mortgage maintained with the treasurer shall be in default, the company may, and upon the written request of the commissioner after the same has been in continuous default for six months shall, withdraw the same from deposit in accordance with the provisions of section 59.06 or proceed with the collection, adjustment, compromise or foreclosure of the mortgage in such manner as in its judgment seems advisable. If the company shall elect to proceed with the collection, adjustment, compromise or foreclosure of the mortgage without the withdrawal thereof from the deposit and possession is deemed necessary by the company for such purpose, the treasurer shall loan the same to the company as provided in Section 59.08, Subdivision 2, and such mortgage shall remain as part of the assets on deposit until extinguished. If the real estate covered by any mortgage has been sold to the company in foreclosure proceedings and a period for redemption

exists, the certificate or other instrument evidencing such sale, subject to redemption, or otherwise evidencing the company's rights and interest in the real estate pending the period for redemption, may be deposited with the treasurer, and shall be valued at the amount of the debt secured by the foreclosed mortgage remaining unpaid at the time of sale. Any such certificate or instrument required by the applicable law to be recorded, may be deposited with the treasurer by delivery to him of an assignment thereof, accompanied by a certificate of an officer of the company or of an employee thereof, duly designated in writing filed with the treasurer, stating that the same is to be forwarded for recording, or has been so forwarded and not yet returned, without the delivery of such certificate or instrument, but it shall forthwith be delivered to him after recordation upon its return to the company. If a redemption is made, the proceeds thereof shall forthwith be paid over to the treasurer, unless such certificate or instrument has been withdrawn from deposit. Upon the expiration of the period for redemption without a redemption, such certificate or instrument shall cease to be an asset on deposit.

Any mortgage, borrowed from the treasurer for the purposes specified in this section, may be retained for a reasonable time pending the collection, adjustment, compromise or foreclosure thereof, notwithstanding anything in this chapter to the contrary, and if extinguished by a sale in foreclosure, a conveyance to the company in lieu of foreclosure, or if the debt secured thereby is paid in full or is otherwise satisfied the mortgage need not be returned to the treasurer. If the mortgage or the default thereon is adjusted, the mortgage shall be returned to him forthwith upon consummation of the adjustment.

Subd. 3. Upon acquisition by the company of any real estate through the foreclosure of any mortgage, or through a voluntary conveyance thereof in lieu of foreclosure, securing a loan insured or guaranteed under the Federal Housing Act or guaranteed, in whole or in part, under the Servicemen's Readjustment Act, the company may, upon filing with the treasurer a notice in writing of its intention to convey such real estate to the Federal Housing Commission in exchange for debentures, as provided in said Federal Housing Act, or to file a claim with the Administrator of Veterans' Affairs for payment in cash of the guaranty, as provided in said Servicemen's Readjustment Act, and a statement of the amount of debentures or the amount of cash to be received on the insurance or on the guaranty, as the case may be, as such amount shall be computed by it, the company may assign said debentures or said cash, as the case may be, with the right to receive the same, to the treasurer as a part of the assets on deposit, and the same shall be valued at the amount of such debentures or such cash, as computed by the company. Upon such assignment, the company shall proceed forthwith to do any and all things necessary to entitle it to receive such debentures or such cash, and it shall request the appropriate administrator to forward the debentures or the cash, as computed by the company. Upon such assignment, the company shall proceed forthwith to do any and all things necessary to entitle it to receive such debentures or such cash, and it shall request the appropriate administrator to forward the debentures or the cash, as the case may be, direct to the treasurer. If, notwithstanding such request the debentures or the cash shall be forwarded to the company, the company shall forthwith deliver the same to the treasurer upon receipt thereof. If the company's claim for such debentures shall be finally rejected by said Federal Housing Commissioner or its claim for insurance by said administrator, having jurisdiction thereof, the assignment of the company's rights to receive the debentures or the cash, as the case may be, shall be withdrawn forthwith from deposit.

[1943 c 591 s 14; 1949 c 539 s 11]

59.15 TAXES AND ASSESSMENTS. The company shall pay and discharge any and all taxes, assessments and other governmental charges levied upon or against any real estate covered by any mortgage maintained with the treasurer under section 59.03, if not paid by the person or corporation under the primary duty of paying the same, within six months after the same has become delinquent; provided that if the company or the owner of the real estate involved desires to contest the validity of such tax, assessment or charges, or the amount thereof, the company shall not be deemed to be in default in respect to the payment thereof unless such taxes, assessments or charges remain unpaid for a period of 30 days after the validity thereof has been sustained or amount thereof has been determined, as the case may be, by final judgment of a court of competent jurisdiction.

[1943 c 591 s 15; 1949 c 539 s 12]

59.16 STATEMENTS TO BE CERTIFIED BY PUBLIC ACCOUNTANT. Subdivision 1. The statements of the value of deposited assets and the amount of liability on outstanding certificates as required by section 59.12 and the reports of defaults on deposited assets required by section 59.14, both as of the 31st day of December of each year, shall be certified by the public accountant qualified to certify the company's financial statement under the Investment Company Act of 1940, and the report by such accountant shall be delivered to the commissioner on or before the 31st day of March following the filing of the respective statements and reports.

Subd. 2. The company shall deliver to the commissioner annually a copy of a complete audit of its books and records, showing, in addition to the things usual in a complete audit, the value of assets deposited pursuant to this chapter and the amount of liability of the company to holders of its outstanding certificates secured hereby, such value and amount being computed in accordance with the provisions hereof. Such audit shall be made by a public accountant qualified as provided in subdivision 1 of this section.

[1943 c. 591 s. 16]

59.17 INSURANCE ON MORTGAGED PROPERTIES MAINTAINED. The company shall at all times maintain or cause to be maintained insurance upon all buildings and such other improvements as are customarily insured, upon real estate covered only by a first mortgage maintained with the treasurer, or upon real estate covered by a first mortgage securing an obligation guaranteed or insured under the provisions of the National Housing Act, and a second mortgage securing a loan the entire amount of which loan is guaranteed under the provisions of the Servicemen's Readjustment Act, maintained with the treasurer, insuring such buildings and improvements against destruction or damage from fire, by policy or policies in usual form, and from such other hazards as the company has required, for at least the amount of the unpaid balance of the principal of such loan or loans, as the case may be, or the amount of the full insurable value of such buildings and improvements, whichever is the lesser, with the loss made payable to the insured and the company and/or its assigns as their interest may appear, subject to, but without obligation to so provide, the right of the insured, insurer, or of the company to restore or repair the loss or damage and to use the proceeds for such purpose. When the amount of the insurance furnished is less than the unpaid principal balance of the loan or loans, as the case may be, the policy or policies or the certificate or certificates of the insurer as hereafter in this section provided, when delivered to the treasurer shall be accompanied by a certificate of an officer of the company, or of an employee thereof, duly authorized in writing to make such certificate, filed with the treasurer, certifying that the amount of such insurance is not less than the full insurable value of the buildings and improvements. The insured shall adjust with the insurer any loss or damage arising in respect of such insurance. The company shall deposit the policy or policies with the treasurer or file with him a certificate of the insurer showing the amount of such insurance, the hazards insured against, and the expiration date or dates of the policy or policies.

[1943 c 591 s 17; 1947 c 313 s 2; 1949 c 539 s 13]

59.18 RATE OF INTEREST MAY BE MODIFIED. The company and the owner of or other persons having an interest in any real estate subject to any mortgage being maintained with the treasurer may at any time before the sale at foreclosure of the real estate described therein, whether such mortgage be in default or otherwise, by agreement in writing change or modify the terms thereof in respect to the rate of interest, the time or manner or amount of the payment of any installment or instalments of principal or interest, or reserves and credits for taxes, assessments and hazard insurance, whether in default or thereafter becoming due, or to include as a part of the principal debt any moneys advanced or to be advanced by the company for the payment of taxes, assessments, or insurance premiums. A copy of any such agreement shall be filed forthwith with the treasurer.

[1943 c 591 s 18; 1949 c 539 s 14]

59.19 WHEN TREASURER MAY SELL ASSETS. Subdivision 1. If the company shall fail to make any cash payment provided in any outstanding certificate secured by the deposit, according to the terms of such certificate, as and when the same matures or otherwise becomes due and payable, the treasurer may, and upon the written request of the holder thereof shall, first giving 30 days written notice to the company of his intention so to do, use so much of the assets main-

tained with him as is necessary to pay and discharge the liability in default, if the default is not cured within the 30 day period, provided, that if such default arises under a certificate in respect of which a separate deposit as described in section 59.03, subdivision 2, is being maintained, no action shall be taken by the treasurer as in this section provided until such separate deposit has been exhausted, and a certificate executed by an executive officer of the company or by an employee thereof, designated for that purpose in writing filed with the treasurer, stating that a separate deposit is being maintained as specified in said subdivision 2 in respect of such certificate, identifying such deposit, shall be conclusive upon the treasurer for the purposes of this section until the right of the holder of such certificate to resort to the deposit maintained hereunder has been acknowledged in writing by the company or has been established by final judgment of a court of competent jurisdiction. To that end, the treasurer shall have the right and power to sell any asset then held by him and not due at private sale or at a public auction, giving to the company at least ten days notice in writing of the time, place and manner of sale and to collect any asset then due or which becomes due during the continuance of the default, with or without suit, and to apply the proceeds so realized, or so much thereof as shall be necessary therefor, to the discharge of the liability in default. In the event the company in good faith disputes the right of any person demanding payment under any such certificate to receive the same or the amount claimed and so notifies the treasurer in writing thereof, no default, for the purpose of this section, shall be deemed to arise until such dispute is settled between the parties thereto or is determined by final judgment of a court of competent jurisdiction.

Subd. 2. If the treasurer shall determine to apply any asset maintained with him to the discharge of a default as hereinbefore provided, he shall forthwith notify the company in writing of his intention so to do, identifying the asset, and shall thereafter be entitled to all then unpaid interest dividends or other income due or to become due thereon; provided that if any of such assets be not sold or collected, the company, upon the discharge of the default, shall become entitled to any such interest, dividends, or other income not applied in the discharge of such default.

Subd. 3. For the purpose of realizing the amount necessary to discharge a default, the company by making a deposit hereunder does thereby irrevocably make, constitute and appoint the treasurer its attorney-in-fact in respect to assets maintained with him hereunder to complete and to make or execute any assignments, transfers, endorsements, cancellations, satisfactions, collections and settlements, in the name of the company or otherwise, and to do any and all acts appropriate in the premises.

Subd. 4. No action shall be taken by the treasurer as provided in this section after a petition has been filed in Federal Court to have the company adjudged a bankrupt under the Federal Bankruptcy Act, after a proceeding has been commenced in any court of competent jurisdiction to have the company adjudged insolvent and to liquidate its affairs, after voluntary judicial dissolution proceedings have been instituted by the company or after the commissioner has taken possession of the properties and assets of the company under authority of law for the purpose of liquidating the affairs of the company, during the pendency of such proceedings, or while the company is restrained from paying the claim of the certificate holder by any order, general or specific, of a court of competent jurisdiction, or is prevented from paying the same by any applicable law of the United States or of any state, by any rule, regulation or order made pursuant to such law or by any executive decree, and the company shall promptly notify the treasurer in writing of the happening of any of such events.

[1943 c 591 s 19; 1949 c 539 s 15]

59.20 TREASURER TO SURRENDER ASSETS TO COURT UPON ORDER.

Should the company be adjudged a bankrupt under the Federal Bankruptcy Act or insolvent by final judgment or decree of any court of competent jurisdiction, or should voluntary dissolution proceedings be instituted, and a trustee in bankruptcy, a general receiver, or a trustee to liquidate the affairs of the company be appointed, or should the commissioner take possession of the properties and assets of the company under authority of law for the purpose of liquidating the affairs of the company, the treasurer, if and when authorized by an order of the court,

shall surrender and deliver the assets then on deposit with him to such trustee, receiver, or commissioner, as the case may be; provided, that such surrender and delivery shall be without prejudice to any rights or liens which certificate holders may have in or upon such assets, arising out of or under the provisions of this chapter.

[1943 c. 591 s. 20]

59.21 TREASURER TO FORWARD NOTICES. The treasurer shall promptly forward to the company all notices, letters, circulars, and communications which he receives in respect of any asset maintained with him hereunder, or a copy thereof, unless he shall deem the same to be of a confidential character.

[1943 c. 591 s. 21]

59.22 NO LIABILITY ON STATE OR TREASURER. The state of Minnesota shall be under no liability in respect of said deposit nor shall the treasurer be under any responsibility or liability in respect thereof, except that he shall be under the same duty and liability for the safekeeping of any such assets delivered into his possession and for the surrender and delivery thereof in accordance with the provisions hereof as in the case of public funds. The treasurer is authorized to procure any insurance or bonds appropriate to protect him against liability for the safekeeping and delivery of said assets. The aggregate penal sum of any fiduciary insurance or bonds shall not exceed \$500,000.

[1943 c. 591 s. 22]

59.23 COMMISSIONER TO MAKE EXAMINATIONS. Subdivision 1. The commissioner at least annually, and as much oftener as he shall deem it advisable, shall make such examination in respect of the deposit with the treasurer as will enable him to determine, as of any date selected by him, whether the company is maintaining the same in accordance with the provisions hereof, and wherein, if at all, it is failing to perform any duty or obligation assumed or imposed upon it by law in respect of such deposit, and may thereupon determine what, if any, action will be taken in the premises in case of failure to perform any such duty or obligation. Nothing in this chapter shall be construed to abridge any power, authority, privilege or duty conferred or imposed upon the commissioner in respect to investment companies under any other law, unless herein expressly provided.

Subd. 2. The time prescribed in this chapter within which any statement or report, or any instrument, document, certificate, opinion or other paper shall be filed with, or delivered or furnished to, the treasurer, or redelivered to him, or within which any act shall be done by the company, may be extended by the commissioner, for good cause shown, for such further period of time as the facts, in his opinion, shall warrant, and, if the time is so extended, the consequences prescribed in this chapter for failure to so file, deliver, redeliver or furnish the same, or do the act, within the time prescribed in this chapter, shall not apply until the expiration of the extended period of time.

[1943 c 591 s 23; 1949 c 539 s 16]

59.24 COST OF ADMINISTRATION. The company shall pay to the state of Minnesota all costs and expenses reasonably and necessarily paid or incurred by the treasurer in the performance of administrative duties or requirements in respect of the deposit and in receiving and safekeeping the assets maintained with him, including the salaries of additional help, if any, employed for that purpose, and the cost of any insurance or bonds required by the treasurer for his protection against liability. At or prior to the time of making the initial deposit hereunder, the treasurer shall make an estimate of the amount reasonably necessary to meet the regular reoccurring monthly expenses likely to be incurred within the next three months period, and a separate estimate of any non-reoccurring monthly expense likely to be incurred within said period, and the company shall forthwith pay the amount of said estimates to the treasurer. Within ten days after the end of each quarterly period thereafter, the treasurer shall present to the company a detailed account of all reoccurring monthly costs and expenses paid by him during the last preceding quarterly period, and an estimate of any non-reoccurring monthly cost or expense likely to be incurred in the next succeeding quarterly period, and the company shall pay to the treasurer, within ten days thereafter, the amount of this account and of the estimate. If at any time the money in the fund shall be insufficient to pay the costs and expenses as and when incurred by the treasurer as aforesaid, the company shall, on request of the treasurer, forth-

with pay to him such additional sum as may be necessary to meet such costs and expenses. If at any time it appears to the treasurer that there is a surplus in the fund over the requirements thereof, he shall deduct all, or such portion of such surplus as he deems advisable, from the account of costs and expenses for next ensuing quarterly period or periods. The sums so paid by the company to the treasurer are hereby appropriated as and when paid for the use of the treasurer for the purposes of paying any costs and expenses incurred by him as aforesaid, and shall constitute a revolving fund for such purposes. Upon the termination of the deposit hereunder, the treasurer shall return to the company any money then remaining in this fund.

[1943 c. 591 s. 24]

59.25 ADDITIONAL ASSISTANTS AND EXPENSE. The commissioner may employ such additional help as may be necessary, if any, to supervise the deposit, and the company shall pay to the state of Minnesota the reasonable and necessary costs and expenses of such additional help and any other expenses that the commissioner may be put to by reason of such deposit, but the expense of general supervision of the company as now provided by statute shall be paid as provided by such statute. At or prior to the making of the initial deposit, the commissioner shall make an estimate of the amount of such costs and expenses likely to be incurred within the next three months period, and the company shall forthwith pay such amount to the treasurer. Within ten days after the end of each quarterly period thereafter, the commissioner shall present to the company a detailed account of the costs and expenses incurred by him and paid by the state for which the company is liable as herein provided, and the company shall pay to the treasurer the amount of such account within ten days thereafter. The sums so paid by the company to the treasurer are hereby appropriated as and when paid for the use of the commissioner for the purposes of paying the costs and expenses incurred by him as aforesaid, and shall constitute a revolving fund for such purposes. Upon the termination of the deposit hereunder, the treasurer shall return to the company any money then remaining in this fund.

[1943 c. 591 s. 25]