

CHAPTER 59

CERTAIN INVESTMENT COMPANIES

Sec.		Sec.	
59.01	Definitions	59.14	Reports showing defaults to be filed
59.02	Deposit of securities	59.15	Taxes and assessments
59.03	Amount of deposit	59.16	Statements to be certified by public accountant
59.04	Securities eligible for deposit	59.17	Insurance on mortgaged properties maintained
59.05	Valuation of securities	59.18	Rate of interest may be modified
59.06	Exchange of deposits	59.19	When treasurer may sell assets
59.07	Income collected by company	59.20	Treasurer to surrender assets to court upon order
59.08	Treasurer to keep assets in vault	59.21	Treasurer to forward notices
59.09	Purpose of pledged assets.	59.22	No liability on state or treasurer
59.10	Record maintained	59.23	Commissioner to make examinations
59.11	Deposit of mortgages, trust deeds	59.24	Cost of administration
59.12	Statement to accompany assets deposited	59.25	Additional assistants and expense
59.13	Notice to treasurer of desire to sell assets		

59.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, for the purposes of this chapter, shall be given the meaning subjoined to them.

Subd. 2. "Company" means a face amount certificate company as defined by the Act of the Congress of the United States of American 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.

[1943 c. 591 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 per cent of its then liability on all certificates outstanding in the United States, except as provided in subdivisions 2 and 3 of this section.

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 certificates secured by the deposit herein authorized, or any thereof, acquired through the foreclosure of any mortgage, trust deed or other similar security instrument 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 of this section 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 defaulted loan at the date of such foreclosure sale or of such conveyance or the book value of such real estate whichever is the lesser. Real estate shall not be eligible as security 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 per cent of its then liability on all certificates issued to or held by residents of the state of Minnesota.

[1943 c. 591 s. 3]

59.04 SECURITIES ELIGIBLE FOR DEPOSIT. Except as otherwise provided herein, assets deposited and maintained under section 59.03 shall be cash and investments in first mortgages and first deeds of trust on improved real estate, 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 or in assets of the kind which life insurance companies are now permitted by the laws of the state of New York to acquire or hold, or any of them, and such other assets as the commissioner may approve as eligible for such purposes.

[1943 c. 591 s. 4]

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 the chapter, shall be valued as follows:

Each bond, debenture, and other security of indebtedness of like kind, acquired by purchase and not in default, if amply secured, if purchased at par, at the par value, and if purchased above or below par, on the basis of the purchase price 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 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 rule; preferred and guaranteed stocks upon which dividends are being currently paid, at average cost to the company of each issue of such stocks; each contract for deed, each mortgage, trust deed or other similar security instru-

ment 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]

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 invest 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; provided 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 five, days prior to their respective maturities.

[1943 c. 591 s. 7]

59.08 TREASURER TO KEEP ASSETS IN VAULT. 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, trust deeds or similar security instruments, or evidences of indebtedness secured by mortgages, trust deeds or other similar security instruments 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 ade-

quate 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.

[1943 c. 591 s. 8]

59.09 PURPOSE OF PLEDGED ASSETS. Subdivision 1. Assets maintained with the treasurer hereunder by a company 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, 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, 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]

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, trust deed or other similar security instrument 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 bond 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 Laws 1943, Chapter 591."

(2) An assignment of the mortgage, trust deed or other similar security instrument in blank.

(3) An attorney's opinion as to title, certificate or policy issued by a title insurance company or a mortgagee's duplicate of the Torrens title certificate, stating, showing or insuring as of the date thereof such mortgage, trust deed or

other security instrument to be a first lien upon the real estate described therein.

(4) Whenever the delivery of any security instrument to the treasurer is required by the foregoing provisions of this section and such instrument 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 instrument, 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, trust deed, or other similar security instrument, and the moneys to be loaned and a duly executed mortgage, trust deed, or other similar security instrument 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, trust deed, or other similar security instrument 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, trust deed, or other similar security instrument, 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, trust deed, or other similar security instrument in its possession, without the delivery of the moneys and the mortgage, trust deed, or other similar security instrument to the treasurer. Any mortgage, trust deed, or other similar security instrument securing moneys loaned or to be loaned for the improvement of real estate, where such moneys are to be disbursed as the work progresses, if duly recorded or deposited in escrow, shall be deemed deposited with the treasurer for the purposes of section 59.03 upon delivery to him of an assignment thereof, without delivery of such mortgage, trust deed, or security instrument or other accompanying instruments specified in this section. Upon the consummation of any such loan, the mortgage, trust deed, or other similar security instrument, duly recorded, and the other accompanying instruments specified in this section, shall be delivered to the treasurer, subject to the provisions of the following proviso. Such mortgage, trust deed or other similar security instrument shall be valued from time to time pending the consummation of the loan at the then amount of money dispersed 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, trust deed, or other similar security instrument filed or to be filed for record but not yet returned or in respect of which it is proposed to procure a certificate or policy issued by a title insurance company or insurance pursuant to the Federal Housing Act, 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, trust deed, or other similar security instrument. Upon the completion of such recordation and return of the instrument or the procurement of such certificate or policy or the effecting of such insurance, such mortgage, trust deed, or other similar security instrument shall be forthwith delivered to the treasurer, together with such other withheld instruments. Upon the failure to make delivery of such mortgage, trust deed, or other similar security instrument or title certificate or policy withheld within 120 days after the assignment of said asset, or in respect of a construction loan as specified in the first proviso, after the consummation of such loan, the same shall be withdrawn.

If any security instrument or accompanying instrument is withheld from delivery to the treasurer as provided in this section, the company shall furnish the treasurer with a statement, stating the reason for the non-delivery 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.

Subd. 2. For the purpose of paragraph (3) of subdivision 1 of this section and of section 59.04, a mortgage, deed or trust or other similar security instrument shall not be deemed to be other than a first lien upon the property covered thereby by reason 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, trust deed or other similar security instrument secured by 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]

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, 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 and the treasurer 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 in the United States, shown by states.

(3) 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 hereof, maintained on deposit or deposits as referred to in section 59.03, subdivision 2, shown by deposits.

(4) A statement showing the aggregate value of the assets, calculated as of the last day of the preceding month, 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 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 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 of this section, as the case may be.

[1943 c. 591 s. 12]

59.13 NOTICE TO TREASURER OF DESIRE TO SELL ASSETS. 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 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 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 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 shall continue to be a part of the assets maintained with the treasurer until such sale, exchange, or payment is consummated, and upon the consummation thereof, the proceeds of such sale or payment, or the property 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 agency to him. If, as a result of such sale, exchange, or payment, 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 is consummated, deposit with the treasurer assets so that upon the consummation of said sale, exchange, or payment 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 section, 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.

[1943 c. 591 s. 13]

59.14 REPORTS SHOWING DEFAULTS TO BE FILED. The company shall file with the commissioner and the treasurer on or before the 30th days of January and July of each year, a report showing the defaults, if any, as of the last day of the preceding month, 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, trust deed or other similar security instrument, then being maintained with the treasurer under section 59.03, as of the last day of the preceding month, 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 some employee of the company, designated by it in writing filed with the commissioner, and shall be verified under oath by the person making the same.

In the event that any mortgage, trust deed, or other similar security instrument 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 such asset in accordance with the provisions of section 59.06 or proceed with the collection, adjustment, compromise, or foreclosure of such asset in such manner as in its judgment seems advisable. If the company shall elect to proceed to collect, adjust, compromise, or foreclose any such asset and shall elect to withdraw the same for that purpose otherwise than as provided in section 59.06, the company shall file with the treasurer a bond, duly executed by it as principal and a corporate surety company, duly licensed under the laws of the state of Minnesota to do a surety business in the state, as

surety, in the penal sum equal at least to the then value of the such mortgage, trust deed, or other similar security instrument, conditioned that the company shall within 30 days after the collection, adjustment, compromise, or completion of foreclosure, deposit with the treasurer the proceeds of the collection or compromise, the adjusted mortgage, trust deed or other similar security instrument, or the sheriff's certificate or other instrument evidencing the company's rights and interest in the real estate pending the period for redemption, if there be a redemption period, together with sufficient additional eligible assets, if any be required, to equal the value of the withdrawn asset at the time of withdrawal. Upon the filing of such bond, the mortgage, trust deed, or other similar security instrument shall be delivered by the treasurer to the company and discharged from any and all liability and incumbrance arising from the deposit thereof with the treasurer hereunder. If in lieu of a separate bond for each mortgage, trust deed, or other similar security instrument so withdrawn, the company shall file one or more general and continuing bonds in such penal sums as it may elect, it shall be entitled to withdraw thereunder, at one time or from time to time, for the purposes aforesaid, mortgages, trust deeds, or other similar security instruments having an aggregate value not in excess of the penal sums of such bonds, plus the value of any deposits theretofore made in accordance with the conditions of such bonds. If more than one such general and continuing bond be filed, the company shall file with the treasurer at the time of the withdrawal of any mortgage, trust deed, or other similar security instrument, otherwise than as provided in section 59.06, a writing specifying the particular bond under which such withdrawal is made. Any bond filed as herein provided shall constitute a part of the deposit; and shall be valued from time to time at the value of any and all mortgages, trust deeds and other similar security instruments withdrawn thereunder, each such asset to be valued as of the time of withdrawal, less the value of any assets deposited in accordance with the conditions of such bond. Any bond may be withdrawn at any time when the conditions thereof have been performed. If the sheriff's certificate or other instrument evidencing the company's rights and interests in the real estate pending the period for redemption be deposited, it shall be valued at the amount of the unpaid principal of the debt secured by the foreclosed mortgage, trust deed or other security instrument as of the time of foreclosure. At least five days before the expiration of the period for redemption, if no redemption has been made prior thereto, the company shall withdraw such certificate or other instrument in accordance with the provisions of section 59.06.

A mortgage, trust deed or other similar security instrument shall not be deemed to be in default, for the purposes of this section, if the collection of the debt secured thereby or the foreclosure of such mortgage, trust deed, or other similar security instrument 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.

[1943 c. 591 s. 14]

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, trust deed, or other similar security instrument 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 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 of the payment thereof unless such taxes, assessments, or charges remain unpaid for a period of 30 days after the validity or amount thereof, as the case may be, has been determined by final judgment of a court of competent jurisdiction.

[1943 c. 591 s. 15]

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 improvements upon real estate covered by any mortgage, trust deed, or other similar security instrument maintained with the treasurer, insuring the same against destruction or damage from fire, by policy 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, with accrued interest, of the loan, with the loss made payable to the company and 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. The company shall adjust with the insurer any loss or damage arising in respect of such insurance. The company shall deposit the 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 dates of the policies.

[1943 c. 591 s. 17]

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, trust deed, or other similar security instrument being maintained with the treasurer may at any time before sale at foreclosure of the real estate described therein, whether such mortgage, trust deed, or other similar security instrument 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 instalment 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]

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 maintained 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, cancelations, 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, and the company shall promptly notify the treasurer in writing of the happening of any of such events.

[1943 c. 591 s. 19]

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. 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.

[1943 c. 591 s. 23]

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, forthwith 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]