

Public Funds Deposit Security Act
Chapter 77, Article 23
§§ 77-2386 to 77-23,108

77-2386

Public Funds Deposit Security Act, how cited.

Sections 77-2386 to 77-23,108 shall be known and may be cited as the Public Funds Deposit Security Act.

Last amended:

Reissue 2018; Laws 2019, LB622, § 1

77-2387

Terms, defined.

For purposes of the Public Funds Deposit Security Act, unless the context otherwise requires:

(1) Affiliate means any entity that controls, is controlled by, or is under common control with another entity;

(2) Bank means any state-chartered or federally chartered bank which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a state-chartered or federally chartered bank which maintained a main chartered office in this state prior to becoming a branch of such state-chartered or federally chartered bank;

(3) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, and a capital stock state savings bank, which has a main chartered office in this state, any branch thereof in this state, or any branch in this state of a capital stock financial institution which maintained a main chartered office in this state prior to becoming a branch of such capital stock financial institution;

(4) Control means to own directly or indirectly or to control in any manner twenty-five percent of the voting shares of any bank, capital stock financial institution, or holding company or to control in any manner the election of the majority of directors of any bank, capital stock financial institution, or holding company;

(5) Custodial official means an officer or an employee of the State of Nebraska or any political subdivision who, by law, is made custodian of or has control over public money or public funds subject to the act or the security for the deposit of public money or public funds subject to the act;

(6) Deposit guaranty bond means a bond underwritten by an insurance company authorized to do business in this state which provides coverage for deposits of a governing authority which are in excess of the amounts insured or guaranteed by the Federal Deposit Insurance Corporation;

(7) Director means the Director of Banking and Finance;

(8) Event of default means the issuance of an order by a supervisory authority or a receiver which restrains a bank, capital stock financial institution, or qualifying mutual financial institution from paying its deposit liabilities;

(9) Governing authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank, capital stock financial institution, or qualifying mutual financial institution as a depository of public money or public funds subject to the act;

(10) Governmental unit means the State of Nebraska or any political subdivision thereof;

(11) Political subdivision means any county, city, village, township, district, authority, or other public corporation or entity, whether organized and existing under direct provisions of the Constitution of Nebraska or laws of the State of Nebraska or by virtue of a charter, corporate articles, or other legal instruments executed under authority of the constitution or laws, including any entity created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act;

(12) Qualifying mutual financial institution shall have the same meaning as in section 77-2365.01;

(13) Repurchase agreement means an agreement to purchase securities by the governing authority by which the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will repurchase the securities on or before a specified date and for a specified amount and the counterparty bank, capital stock financial institution, or qualifying mutual financial institution will deliver the underlying securities to the governing authority by book entry, physical delivery, or third-party custodial agreement. The transfer of underlying securities to the counterparty bank's, capital stock financial institution's, or qualifying mutual financial institution's customer book entry account may be used for book entry delivery if the governing authority so chooses; and

(14) Securities means:

(a) Bonds or obligations fully and unconditionally guaranteed both as to principal and interest by the United States Government;

(b) United States Government notes, certificates of indebtedness, or treasury bills of any issue;

(c) United States Government bonds;

(d) United States Government guaranteed bonds or notes;

(e) Bonds or notes of United States Government agencies;

(f) Bonds of any state or political subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (c), (d), or (e) of this subdivision;

(g) Bonds or obligations, including mortgage-backed securities and collateralized mortgage obligations, issued by or backed by collateral one hundred percent guaranteed by the Federal Home Loan Mortgage Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or the Federal National Mortgage Association;

- (h) Student loans backed or partially guaranteed by the United States Department of Education;
- (i) Repurchase agreements the subject securities of which are any of the securities described in subdivisions (a) through (g) of this subdivision;
- (j) Securities issued under the authority of the Federal Farm Loan Act;
- (k) Loan participations which carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture;
- (l) Guaranty agreements of the Small Business Administration of the United States Government;
- (m) Bonds or obligations of any county, city, village, metropolitan utilities district, public power and irrigation district, sewer district, fire protection district, rural water district, or school district in this state which have been issued as required by law;
- (n) Bonds of the State of Nebraska or of any other state which are purchased by the Board of Educational Lands and Funds of this state for investment in the permanent school fund or which are purchased by the state investment officer of this state for investment in the permanent school fund;
- (o) Bonds or obligations of another state, or a political subdivision of another state, which are rated within the two highest classifications by at least one of the standard rating services, with such classifications to include the underlying credit rating or enhanced credit rating, whichever is higher, with respect to bonds or obligations of a political subdivision of another state;
- (p) Warrants of the State of Nebraska;
- (q) Warrants of any county, city, village, local hospital district, or school district in this state;
- (r) Irrevocable, nontransferable, unconditional standby letters of credit issued by a Federal Home Loan Bank; and
- (s) Certificates of deposit fully insured or guaranteed by the Federal Deposit Insurance Corporation that are issued to a bank, capital stock financial institution, or qualifying mutual financial institution furnishing securities pursuant to the Public Funds Deposit Security Act.

Last amended:

Reissue 2018; Laws 2022, LB707, § 59

77-2388

Authorized depositories; security; requirements.

Any bank, capital stock financial institution, or qualifying mutual financial institution subject to a requirement by law to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation may give security by furnishing securities or providing a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act in satisfaction of the requirement.

Last amended:

Reissue 2018; Laws 2019, LB622, § 3

77-2389***Security; how furnished.***

A bank, capital stock financial institution, or qualifying mutual financial institution furnishes securities pursuant to the Public Funds Deposit Security Act if it (1) deposits securities held by the bank, capital stock financial institution, or qualifying mutual financial institution, (2) pledges or grants a security interest in securities held by the bank, capital stock financial institution, or qualifying mutual financial institution as provided in the act, or (3) effects the assignment to the custodial official of a certificate of deposit fully insured or guaranteed by the Federal Deposit Insurance Corporation that is issued to the bank, capital stock financial institution, or qualifying mutual financial institution.

Last amended:

Reissue 2018

77-2390***Deposit of trust receipt authorized.***

Any bank, capital stock financial institution, or qualifying mutual financial institution pledging securities to secure deposits of public money or public funds pursuant to section 77-2389 may deposit, with the approval of the governing authority, the securities in a federal reserve bank or a bank, federal home loan bank, capital stock financial institution, qualifying mutual financial institution, or trust company approved by the governing authority, and take for the same a trust receipt in the form of and executed in the manner approved by the governing authority. When the transaction has been approved, the bank, capital stock financial institution, or qualifying mutual financial institution may deposit the trust receipt in lieu of the securities evidenced by the trust receipt.

Last amended:

Reissue 2018

77-2391***Security; delivery requirements; perfection.***

(1) Securities pledged or securities in which a security interest has been granted pursuant to section 77-2389 shall be delivered to and held by a federal reserve bank or by a branch of a federal reserve bank, a federal home loan bank, or another responsible bank, capital stock financial institution, or qualifying mutual financial institution, including a bank, capital stock financial institution, or qualifying mutual financial institution chartered by a foreign state agency as defined in subdivision (14) of section 8-101.03, or trust company, other than the pledgor or the bank, capital stock financial institution, or qualifying mutual financial institution granting the security interest, as designated by the governing authority, with appropriate joint custody and the pledge agreement or security interest as described in subsection (2) of this section, in a form approved by the governing authority.

(2) The delivery by the bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository to the custodial official of a written receipt or acknowledgment from a federal reserve bank or branch of a federal reserve bank, a federal home loan bank, or another bank, capital stock financial institution, or qualifying mutual financial institution, including a bank, capital stock financial institution, or qualifying mutual financial institution chartered by a foreign state agency as defined in subdivision (14) of section 8-101.03, or trust company, other than the bank, capital stock financial institution, or qualifying mutual financial institution granting the security interest, that includes the title of such custodial official, describes the securities identified on the books or records of the depository, and provides that the securities or the proceeds of the securities will be delivered only upon the surrender of the written receipt or the acknowledgment duly executed by the custodial official designated on the written receipt or the acknowledgment and by the authorized representative of the depository shall, together with the custodial official's actual and continued possession of the written receipt or acknowledgment, constitute a valid and perfected security interest in favor of the custodial official in and to the identified securities.

(3) Articles 8 and 9, Uniform Commercial Code, shall not apply to any security interest arising under this section.

Last amended:

Reissue 2018; Laws 2021, LB66, § 1

77-2392

Substitution or exchange of securities authorized.

A bank, capital stock financial institution, or qualifying mutual financial institution which has furnished securities pursuant to the Public Funds Deposit Security Act shall have the right at any time and without prior approval to substitute or exchange other securities of equal value in lieu of securities furnished except that such securities substituted or exchanged shall be those provided for under the act and such substitution or exchange shall not reduce the market value of the securities to an amount that is less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation. Following any substitution or exchange of securities pursuant to this section by a bank, capital stock financial institution, or qualifying mutual financial institution utilizing the dedicated method as provided in subdivision (2)(a) of section 77-2398, the custodial official shall report such substitution or exchange to the governing authority.

Last amended:

Reissue 2018; Laws 2019, LB622, § 4

77-2393

Withdrawal of securities; when; effect.

A bank, capital stock financial institution, or qualifying mutual financial institution which has furnished securities pursuant to the Public Funds Deposit Security Act may withdraw all or any part of such securities upon repayment to the custodial official, director, or administrator, as applicable, of the amount of the securities thus withdrawn, and thereupon the custodial official, director, or administrator, as applicable, shall be empowered to assign such securities to the owner

thereof. All interest coupons attached to securities furnished under the act shall be detached by the holder or qualified trustee thirty days before maturity and returned to such bank, capital stock financial institution, or qualifying mutual financial institution.

Last amended:

Reissue 2018; Laws 2021, LB66, § 2

77-2394

Deposit guaranty bond; statement required.

A bank, capital stock financial institution, or qualifying mutual financial institution provides a deposit guaranty bond pursuant to the Public Funds Deposit Security Act if it issues a deposit guaranty bond which runs to the director or custodial official, as applicable, and which is conditioned that the bank, capital stock financial institution, or qualifying mutual financial institution shall, upon written request by the director or custodial official, as applicable, at the end of each and every month, render to the director or custodial official, as applicable, a statement showing the daily balances and the amounts of public money or public funds of the governing authority held by it during the month and how credited. The public money or public funds shall be paid promptly on the order of the custodial official depositing the public money or public funds.

Last amended:

Reissue 2018; Laws 2021, LB66, § 3

77-2395

Custodial official; duties.

(1) If a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository provides a deposit guaranty bond or furnishes securities or any combination thereof, pursuant to section 77-2389, the custodial official shall not have on deposit in such depository any public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, unless and until the depository has provided a deposit guaranty bond or furnished securities, or any combination thereof, to the custodial official, and the total value of such deposit guaranty bond and the market value of such securities are in an amount not less than one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

(2) If a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository provides a deposit guaranty bond or furnishes securities or any combination thereof, pursuant to subsection (1) of section 77-2398, the governmental unit shall not have on deposit in such depository any public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, unless and until the depository has provided a deposit guaranty bond or furnished securities, or any combination thereof, pursuant to the Public Funds Deposit Security Act, and the total value of such deposit guaranty bond and the aggregate market value of the pool of such securities so provided are in an

amount not less than one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed.

Last amended:

Reissue 2018; Laws 2021, LB66, § 4

77-2396

Custodial official; liability.

No custodial official shall be liable on his or her official bond as such custodial official for public money or public funds on deposit in a bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository if the depository has furnished securities or provided a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act.

Last amended:

Reissue 2018; Laws 2019, LB622, § 7

77-2397

Depositories of public money or public funds; powers.

All depositories of public money or public funds belonging to the State of Nebraska or the political subdivisions in this state shall have full authority to deposit, pledge, or grant a security interest in their assets or to provide a deposit guaranty bond, or any combination thereof, for the security and payment for all such deposits and accretions. The State of Nebraska and any political subdivision in this state and the director, administrator, or custodial official, as applicable, are given the right and authority to accept such deposit, pledge, or grant of a security interest in assets or the provision of a deposit guaranty bond, or any combination thereof.

Last amended:

Reissue 2018; Laws 2021, LB66, § 5

77-2398

Deposits in excess of insured or guaranteed amount; requirements.

(1) As an alternative to the requirements to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation pursuant to sections 77-2389 and 77-2394, a bank, capital stock financial institution, or qualifying mutual financial institution designated as a public depository may secure the deposits of one or more governmental units by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities or by a combination thereof to secure the repayment of all public money or public funds deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by such governmental units and not otherwise secured pursuant to law, if at all times the total value of the deposit guaranty bond and the aggregate market value of the pool of securities so deposited, pledged, or in which a security interest is granted is at least equal to one hundred two percent of the amount on deposit which is in excess of the amount so insured or guaranteed. Each such bank, capital stock financial institution, or qualifying mutual financial institution shall carry on its accounting records at all times a general ledger or other

appropriate account of the total amount of all public money or public funds to be secured by a deposit guaranty bond or by the pool of securities, or any combination thereof, as determined at the opening of business each day, and the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted to secure such public money or public funds. For purposes of this section, a pool of securities shall include shares of investment companies registered under the federal Investment Company Act of 1940 when the investment companies' assets are limited to obligations that are eligible for investment by the bank, capital stock financial institution, or qualifying mutual financial institution and limited by their prospectuses to owning securities enumerated in section 77-2387.

(2) A bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds using the dedicated method, the single bank pooled method, or both methods as set forth in subsection (1) of this section.

(a) Under the dedicated method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds by each governmental unit separately by furnishing securities or providing a deposit guaranty bond, or any combination thereof, pursuant to the Public Funds Deposit Security Act.

(b)(i) Under the single bank pooled method, a bank, capital stock financial institution, or qualifying mutual financial institution may secure the deposit of public money or public funds of one or more governmental units by providing a deposit guaranty bond or through a pool of eligible securities established by such bank, capital stock financial institution, or qualifying mutual financial institution with a qualified trustee, or any combination thereof, to be held subject to the order of the director or the administrator for the benefit of the governmental units having public money or public funds with such bank, capital stock financial institution, or qualifying mutual financial institution as set forth in subsection (1) of this section. A bank, capital stock financial institution, or qualifying mutual financial institution may not retain any deposit of public money or public funds which is required to be secured unless, within ten days thereafter or such shorter period as has been agreed upon by the bank, capital stock financial institution, or qualifying mutual financial institution and the director or administrator, it has secured the deposits for the benefit of the governmental units having public money or public funds with such bank, capital stock financial institution, or qualifying mutual financial institution pursuant to this section.

(ii) The director shall designate a bank, savings association, trust company, or other qualified firm, corporation, or association which is authorized to transact business in this state to serve as the administrator with respect to a single bank pooled method. Fees and expenses of such administrator shall be paid by the banks, capital stock financial institutions, or qualifying mutual financial institutions utilizing the single bank pooled method.

(iii) If a bank, capital stock financial institution, or qualifying mutual financial institution elects to secure the deposit of public money or public funds through the use of the single bank pooled method, such bank, capital stock financial institution, or qualifying mutual financial institution shall notify the administrator in writing that it has elected to utilize the single bank pooled method and the proposed effective date thereof.

(iv) The single bank pooled method shall not be utilized by any bank, capital stock financial institution, or qualifying mutual financial institution unless an administrator has been designated by the director pursuant to subdivision (2)(b)(ii) of this section and is acting as the administrator.

(3) Only a deposit guaranty bond and the securities listed in subdivision (14) of section 77-2387 may be provided and accepted as security for the deposit of public money or public funds and shall be eligible as collateral. The qualified trustee shall not accept any securities which are not listed in subdivision (14) of section 77-2387.

Last amended:

Reissue 2018; Laws 2020, LB909, § 52

77-2399

Governmental unit; deposits in excess of insured amount; security interest; rights.

(1) Each governmental unit depositing public money or public funds in a bank, capital stock financial institution, or qualifying mutual financial institution shall have an undivided beneficial interest under the deposit guaranty bond provided and an undivided security interest in the pool of securities deposited, pledged, or in which a security interest is granted by such bank, capital stock financial institution, or qualifying mutual financial institution pursuant to subsection (1) of section 77-2398 in the proportion that the total amount of the governmental unit's public money or public funds held deposited in such bank, capital stock financial institution, or qualifying mutual financial institution secured by the deposit guaranty bond or by the pool of securities, or any combination thereof, bears to the total amount of public money or public funds so secured.

(2) The delivery by the bank, capital stock financial institution, or qualifying mutual financial institution designated as a depository to the director or administrator of a written receipt or acknowledgment from a federal reserve bank or branch of a federal reserve bank, a federal home loan bank, or another responsible bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, or qualifying mutual financial institution which is authorized to exercise trust powers, including a bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, or qualifying mutual financial institution which is authorized to exercise trust powers chartered by a foreign state agency as defined in subdivision (14) of section 8-101.03, or trust company other than the bank, capital stock financial institution, or qualifying mutual financial institution granting the security interest, that includes the name of the director or administrator, describes the securities identified on the books or records of the depository, and provides that the securities or the proceeds of the securities will be delivered only upon the surrender of the written receipt or acknowledgment duly executed by the director or administrator designated on the written receipt or acknowledgment and by the authorized representative of the depository shall, together with the director's or administrator's actual and continued possession of the written receipt or acknowledgment, constitute a valid and perfected security interest in favor of the director or administrator in and to the identified securities.

(3) Articles 8 and 9, Uniform Commercial Code, shall not apply to any security interest arising under this section.

Last amended:

Reissue 2018; Laws 2021, LB66, § 6

77-23,100

Deposits in excess of insured or guaranteed amount; qualified trustee; duties.

(1) Any bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds have been deposited which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation, in whole or in part, by the deposit, pledge, or granting of a security interest in a single pool of securities shall designate a qualified trustee and place with the trustee for holding the securities so deposited, pledged, or in which a security interest has been granted pursuant to subsection (1) of section 77-2398, subject to the order of the director or the administrator. The bank, capital stock financial institution, or qualifying mutual financial institution shall give written notice of the designation of the qualified trustee to any governmental unit depositing public money or public funds for which such securities are deposited, pledged, or in which a security interest has been granted, and if an affiliate of the bank, capital stock financial institution, or qualifying mutual financial institution is to serve as the qualified trustee, the notice shall disclose the affiliate relationship and shall be given prior to designation of the qualified trustee. The director or administrator shall accept the written receipt of the qualified trustee describing the pool of securities so deposited, pledged, or in which a security interest has been granted by the bank, capital stock financial institution, or qualifying mutual financial institution, a copy of which shall also be delivered to the bank, capital stock financial institution, or qualifying mutual financial institution.

(2) Any bank, capital stock financial institution, or qualifying mutual financial institution which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation under the Public Funds Deposit Security Act, in whole or in part, by providing a deposit guaranty bond pursuant to the provisions of subsection (1) of section 77-2398, shall designate the director and cause to be issued a deposit guaranty bond which runs to the director acting for the benefit of the governmental units having public money or public funds on deposit with such bank, capital stock financial institution, or qualifying mutual financial institution and which is conditioned that the bank, capital stock financial institution, or qualifying mutual financial institution shall render to the administrator the statement required under subsection (3) of this section.

(3) Each bank, capital stock financial institution, or qualifying mutual financial institution which satisfies its requirement to secure the deposit of public money or public funds in excess of the amount insured or guaranteed by the Federal Deposit Insurance Corporation by providing a deposit guaranty bond or by depositing, pledging, or granting a security interest in a single pool of securities, or any combination thereof, shall, on or before the tenth day of each month, render to the administrator a statement showing as of the last business day of the previous month (a) the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution that is not insured or guaranteed by the Federal Deposit Insurance Corporation (i) by each governmental unit separately and (ii) by all governmental units in the aggregate and (b) the total value of the deposit guaranty bond and the aggregate market value of the pool of securities deposited, pledged, or in which a security interest has been granted pursuant to subsection (1) of section 77-2398. The director shall be authorized, acting for the

benefit of the governmental units having public money or public funds on deposit with such bank, capital stock financial institution, or qualifying mutual financial institution, to take any and all actions necessary to take title to or to effect a first perfected security interest in the securities deposited, pledged, or in which a security interest is granted.

(4) Within twenty days after the deadline for receiving the statement required under subsection (3) of this section from a bank, capital stock financial institution, or qualifying mutual financial institution, the administrator shall provide a report to each governmental unit listed in such statement reflecting (a) the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution by each governmental unit as of the last business day of the previous month that is not insured or guaranteed by the Federal Deposit Insurance Corporation and that is secured pursuant to subsection (1) of section 77-2398 and (b) the total value of the deposit guaranty bond and the aggregate market value of the pool of securities deposited, pledged, or in which a security interest is granted pursuant to subsection (1) of section 77-2398 as of the last business day of the previous month. The report shall clearly notify the governmental unit if the value of the deposit guaranty bond provided or the securities deposited, pledged, or in which a security interest has been granted, or any combination thereof, do not meet the statutory requirement. The report required by this subsection shall be deemed to have been provided to a governmental unit upon posting of the report by the administrator on its website for access by governmental units participating under the single bank pooled method if the governmental unit has agreed in advance to receive such report by accessing the administrator's website.

Last amended:

Reissue 2018; Laws 2021, LB66, § 7

77-23,101

Qualified trustee; requirements.

Any Federal Reserve Bank, branch of a Federal Reserve Bank, a federal home loan bank, or another responsible bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, or qualifying mutual financial institution which is authorized to exercise trust powers, including a bank which is authorized to exercise trust powers, capital stock financial institution which is authorized to exercise trust powers, or qualifying mutual financial institution which is authorized to exercise trust powers chartered by a foreign state agency as defined in subdivision (14) of section 8-101.03, or trust company, other than the pledgor or the bank, capital stock financial institution, or qualifying mutual financial institution providing the deposit guaranty bond or granting the security interest, is qualified to act as a qualified trustee for the receipt of a deposit guaranty bond or the holding of securities under section 77-23,100. The bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds are deposited may at any time substitute, exchange, or release securities deposited with a qualified trustee if such substitution, exchange, or release does not reduce the aggregate market value of the pool of securities to an amount that is less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation. The bank, capital stock financial institution, or qualifying mutual financial institution in which public money or public funds are deposited may at any time reduce the amount of the deposit guaranty bond if the reduction does not reduce the total combined value of the

deposit guaranty bond and the aggregate market value of the pool of securities to an amount less than one hundred two percent of the total amount of public money or public funds less the portion of such public money or public funds insured or guaranteed by the Federal Deposit Insurance Corporation.

Last amended:

Reissue 2018; Laws 2021, LB66, § 8

77-23,102

Default; procedure.

(1) When the director determines that a bank, capital stock financial institution, or qualifying mutual financial institution which secures the deposit of public money or public funds using the single bank pooled method has experienced an event of default the director shall proceed in the following manner: (a) The director shall ascertain the aggregate amounts of public money or public funds secured pursuant to subsection (1) of section 77-2398 and deposited in the bank, capital stock financial institution, or qualifying mutual financial institution which has defaulted, as disclosed by the records of such bank, capital stock financial institution, or qualifying mutual financial institution. The director shall determine for each governmental unit for whom public money or public funds are deposited in the defaulting bank, capital stock financial institution, or qualifying mutual financial institution the accounts and amount of federal deposit insurance or guarantee that is available for each account. The director shall then determine for each such governmental unit the amount of public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation and the amount of the deposit guaranty bond or pool of securities pledged, deposited, or in which a security interest has been granted, or any combination thereof, to secure such public money or public funds. Upon completion of this analysis, the director shall provide each such governmental unit with a statement that reports the amount of public money or public funds deposited by the governmental unit in the defaulting bank, capital stock financial institution, or qualifying mutual financial institution, the amount of public money or public funds that may be insured or guaranteed by the Federal Deposit Insurance Corporation, and the amount of public money or public funds secured by a deposit guaranty bond or secured by a pool of securities, or any combination thereof, pursuant to subsection (1) of section 77-2398. Each such governmental unit shall verify this information from his or her records within ten business days after receiving the report and information from the director; and (b) upon receipt of a verified report from such governmental unit and if the defaulting bank, capital stock financial institution, or qualifying mutual financial institution is to be liquidated or if for any other reason the director determines that public money or public funds are not likely to be promptly paid upon demand, the director shall proceed to enforce the deposit guaranty bond and liquidate the pool of securities held to secure the deposit of public money or public funds and shall repay each governmental unit for the public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation deposited in the bank, capital stock financial institution, or qualifying mutual financial institution by the governmental unit. In the event that the amount of the deposit guaranty bond or the proceeds of the securities held by the director after liquidation is insufficient to cover all public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation for all governmental units for whom the director serves, the director shall pay out to each governmental unit available amounts pro rata in accordance with the respective public money or public funds not insured or guaranteed by the Federal Deposit Insurance Corporation for each such governmental unit.

(2) In the event that a federal deposit insurance agency is appointed and acts as a liquidator or receiver of any bank, capital stock financial institution, or qualifying mutual financial institution under state or federal law, those duties under this section that are specified to be performed by the director in the event of default may be delegated to and performed by such federal deposit insurance agency.

Last amended:

Reissue 2018; Laws 2021, LB66, § 9

77-23,103

Charges or compensation of qualified trustee.

Any charges or compensation of a qualified trustee for acting as such under the Public Funds Deposit Security Act shall be paid by the bank, capital stock financial institution, or qualifying mutual financial institution and in no event shall be chargeable to any governmental unit, to the custodial official, or to any officer of the governmental unit. Such charges or compensation shall not be a lien or charge upon the deposit guaranty bond or the securities held by the qualified trustee prior, superior, or equal to the rights to and interests under such deposit guaranty bond or in such securities of the governmental unit or of the custodial official. The custodial official shall be relieved from any liability to the governmental unit or to the bank, capital stock financial institution, or qualifying mutual financial institution for the loss or destruction of any deposit guaranty bond or securities pledged, deposited, or in which a security interest has been granted.

Last amended:

Reissue 2018

77-23,104

Assignment of securities; when.

In lieu of placing its unqualified endorsement on each security, a bank, capital stock financial institution, or qualifying mutual financial institution depositing, pledging, or granting a security interest in securities pursuant to subsection (1) of section 77-2398 that are not negotiable without its endorsement or assignment may furnish to the qualified trustee holding the securities an appropriate resolution and irrevocable power of attorney authorizing the trustee to assign the securities. The resolution and power of attorney shall conform to such terms and conditions as the trustee prescribes.

Last amended:

Reissue 2018

77-23,105

Reports required.

Upon request of a governmental unit, a bank, capital stock financial institution, or qualifying mutual financial institution shall report as of the date of such request the amount of public money or public funds deposited in such bank, capital stock financial institution, or qualifying mutual financial institution that is not insured or guaranteed by the Federal Deposit Insurance Corporation (1) by the governmental unit making the request and (2) by all other governmental units and

secured pursuant to subsection (1) of section 77-2398, and the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest has been granted to secure public money or public funds held by the bank, capital stock financial institution, or qualifying mutual financial institution, including those deposited by the governmental unit. Upon request of a governmental unit, a qualified trustee shall report as of the date of such request the total value of the deposit guaranty bond or the aggregate market value of the pool of securities deposited, pledged, or in which a security interest has been granted by the bank, capital stock financial institution, or qualifying mutual financial institution and shall provide an itemized list of the securities in the pool. Such reports shall be made on or before the date the governmental unit specifies.

Last amended:

Reissue 2018; Laws 2021, LB66, § 10

77-23,106

Public money or public funds; prompt payment.

The public money or public funds in the bank, capital stock financial institution, or qualifying mutual financial institution shall be paid promptly on the order of the custodial official or governmental unit depositing the public money or public funds in such bank, capital stock financial institution, or qualifying mutual financial institution.

Last amended:

Reissue 2018; Laws 2021, LB66, § 11

77-23,107

Liability.

The director and the administrator under the Public Funds Deposit Security Act shall, except for actions or inactions that constitute gross negligence or intentional wrongful acts, be immune from liability for any act required of or authorized for the director and the administrator under the act.

Last amended:

Reissue 2018; Laws 2019, LB622, § 14

77-23,108

Rules and regulations.

The director may adopt and promulgate rules and regulations, establish policies and procedures, prescribe forms, or issue orders as may be necessary to accomplish the purposes of the Public Funds Deposit Security Act.

Last amended:

Reissue 2018; Laws 2019, LB622, § 15