

**"CHAPTER 38
DEPOSITS OF PUBLIC FUNDS**

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Note

Chapter heading amended by L 1970, c 51, §1.

" **§38-1 Definitions.** As used in this chapter, unless the context otherwise indicate:

Comptroller means the state comptroller.

Depository includes any federally insured national or state bank, savings and loan association, or financial services loan company; or federal or state credit union insured by the national credit union administration authorized to do business in this State.

Director means the state director of finance. [L 1970, c 51, pt of §1; am L 1988, c 27, §1 and c 78, §2; am L 1989, c 266, §3]

" **§38-2 Authorized; conditions.** (a) All moneys in the state treasury may be deposited by the director to the credit of the State in any depository which the director, with the approval of the governor, may select, pursuant to this section, and any sums so deposited shall be deemed to be in the state treasury; provided that the depository in which the money is deposited furnish security as hereinafter provided. In selecting a depository the class of security offered shall be considered as the basis of selection and due regard shall be given to a depository doing business in the State.

(b) No more than forty per cent of the aggregate amount of moneys of the State available for deposit and on deposit in the state treasury may be deposited in depositories without the State.

(c) No more than sixty per cent of the aggregate amount of moneys of the State available for deposit and on deposit in the state treasury may be deposited in any one depository; provided that if the yield offered by any one depository in the State is greater than the yield offered by other depositories in the State, then, consistent with the safety and liquidity of such moneys, more than sixty per cent of the aggregate amount of moneys available for deposit and on deposit in the stated treasury may be deposited in such depository within the State offering a higher yield.

(d) The director shall consider the beneficial effects to the State of using depositories within the State, as well as the safety and liquidity of the sums to be deposited in the depository and the yield offered by the depository prior to the selection of the depository.

(e) In case of loan fund money for which there is no immediate need, or expenditures from which would not be made for

at least three months, the director may place these funds on time deposit on such terms and at such rates of interest as may be allowed by a depository to other depositors.

(f) All deposits of money, except time deposits, shall be paid upon demand on checks signed by the director and countersigned by the comptroller, or by the payment of a certificate of deposit issued by the depository, which certificate shall be endorsed by the payee named therein, as well as by the comptroller, or by preauthorized automatic transfer of funds between transaction accounts held within the same depository. Transaction accounts, as defined in Regulation D of the Federal Reserve System, as authorized by Section 19 (12 U.S.C. 461 et seq.) of the Federal Reserve Act, includes all checking accounts, both demand and interest bearing. Each depository shall at the end of every month render to the director a statement, in duplicate, for each of the funds of the State, showing the daily balances on open commercial account which were held by it during the month. The duly authorized representatives of any depository shall at all times during office hours have access to the securities deposited by the depository to secure the deposits of the State for the purpose of examining the same and removing the coupons that may have matured, the examination to be made in the presence of the director or the director's representative. [L 1970, c 51, pt of §1; am L 1980, c 229, §1; gen ch 1985; am L 1988, c 78, §3; am L 1994, c 21, §1]

Attorney General Opinions

Gives director of finance broad authority to deposit state moneys. Att. Gen. Op. 85-22.

" **§38-3 Securities for protection of funds deposited.** For the protection of funds deposited by the director under this chapter, the following securities shall be deposited with the director, or with banks in the continental United States, or with financial institutions with trust powers authorized to do business in the State, as the director may select, to be held therein for safekeeping subject to the order of the director, any other provisions of the laws of the State to the contrary notwithstanding:

- (1) Bonds, notes, debentures, or other evidences of indebtedness of the State or of any county of the State, for which the payment of the interest and principal is a direct obligation of the State or the county, as the case may be, in an amount at least

equal in their par value to the amount of the deposit with the depository;

- (2) Bonds, notes, debentures, or other evidences of indebtedness of agencies of the State or of agencies of any county of the State, for which the payment of the interest and principal is from the revenues of the issuing agency, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (3) Bonds, notes, debentures, or other evidences of indebtedness of any improvement district or frontage improvement of any county of the State, for which the payment of the interest and principal is from the assessments made for the improvement, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (4) Bonds, notes, bills, or certificates of indebtedness of the United States or of agencies of the United States, for which the payment of the interest and principal is a direct obligation of the United States, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (5) Bonds, notes, federal home loan bank letters of credit, or debentures of agencies of the United States, in an amount at least equal to ninety-five per cent of their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (6) Warrants or warrant notes of the State in an amount at least equal in their face value to the amount of the deposit with the depository;
- (7) Bonds, notes, debentures, or other evidences of indebtedness of any other state of the United States, for which the payment of the interest and principal is a direct obligation of that state, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (8) Bonds, notes, debentures, or other evidences of indebtedness of any city or of any county in the continental United States, for which the payment of the interest and principal is a direct obligation of the city or county, as the case may be, in an amount at least equal in their market value, but not to

exceed their par value, to the amount of the deposit with the depository;

- (9) Certificates of deposit issued through the Certificate of Deposit Account Registry Service in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (10) Other assets on the books of the depository that are eligible to secure advances from the Federal Reserve Banks under regulations of the Federal Reserve Board, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; provided that not more than fifty per cent of the deposits held by a depository may be secured by assets of this class.

Security shall not be required for that portion of any deposit that is insured under any law of the United States.

Securities deposited under this section may be withdrawn from time to time; provided that the required amount of securities shall at all times be kept on deposit. The director at any time may require additional securities to be deposited under this section.

In the event that the depository shall fail to pay the deposits, or any part thereof, upon presentation of a check or a certificate of deposit, then the director shall forthwith convert the securities deposited under this section into money for and on behalf of the State; provided that no securities shall be sold except at public auction, after giving at least ten days' public notice thereof in the State. [L 1970, c 51, pt of §1; am L 1980, c 229, §2; am L 1982, c 30, §1; am L 1984, c 148, §1; am L 1988, c 78, §4; am L 1997, c 134, §1; am L 1998, c 2, §10; am L 2004, c 204, §1]

" **§38-4 Provisions of depository contracts.** Any acceptance by a depository of treasury moneys shall constitute an acceptance of the provisions of sections 38-2 and 38-3, and those provisions shall be deemed a part of and incorporated into the contract of deposit without any necessity for specific mention thereof. The director shall file with the comptroller a copy of any formal written contract of deposit which may be entered into. [L 1970, c 51, pt of §1]

" **§38-5 Indemnity bond from depository.** The director with the approval of the governor, shall, if in the director's judgment it appears necessary for the security of the State, require the depository to give indemnity bonds, the sureties on which shall not be interested as stockholders in the depository,

to be approved by the governor and director to secure the State against the loss of any depreciation in value that may occur in the bonds held by the director as security for the safekeeping and prompt payment of the money of the State in the depository. [L 1970, c 51, pt of §1; gen ch 1985]

" **§38-6 Certificates of deposit, deposit receipts.** At the time of depositing state money in any depository, the director shall take certificates of deposit payable to the director in such sums as the director deems advisable, or a receipt showing that the deposit is subject to check. The certificates of deposit, receipts, and all balances of these deposits shall be deemed and counted as cash. [L 1970, c 51, pt of §1; gen ch 1985]

" **§38-7 Responsibility of director.** The director shall not be responsible for any moneys deposited in a depository under this chapter, but the State through its director shall be chargeable with the safekeeping of the bonds deposited with the director as security for deposits of state money, and of the proceeds of any sale of the bonds made under this chapter. [L 1970, c 51, pt of §1; gen ch 1985]

" **§38-8 Additional responsibility.** The State through its director shall be chargeable with the safekeeping of the securities deposited with the director by the treasurers of the several counties under section 46-52. [L 1970, c 51, pt of §1; gen ch 1985]

" **§38-9 REPEALED.** L 1998, c 119, §2.

" **§38-10 Interest on loan funds.** All unexpended balances of state loan funds which have been allotted to the several counties for local improvements, and also all state loan funds which are so allotted, shall be deposited by the director in a depository in separate accounts. All interest received from any depository, on account of the separate deposits, shall be credited to the respective counties. [L 1970, c 51, pt of §1]