

AN ACT

ENTITLED, An Act to revise certain provisions relating to public deposits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 51A-10-9 be amended to read as follows:

51A-10-9. No bank may give preference to any depositor or creditor by pledging the assets of the bank as collateral security except as provided in §§ 51A-4-13 and 51A-5-18 and as follows:

- (1) The bank may deposit with the treasurer of the United States so much of its assets as may be necessary to qualify as a depository for federal funds and bankruptcy court funds;
- (2) A bank, in order to qualify as a depository of funds deposited by the state, any political subdivision thereof, including counties, municipalities, townships and school districts, or by any officer, commission, board, bureau or agency of the state or political subdivision or any tribal government, shall segregate as security, investment securities as provided in §§ 51A-4-25 and 51A-4-26, or irrevocable standby letters of credit, or a surety bond, in accordance with § 4-6A-3, a sum equal to one hundred ten percent of the amount deposited in excess of the amount insured by the Federal Deposit Insurance Corporation;
- (3) A bank may pledge securities to guarantee deposit of out-of-state municipal, school district, county, or state funds in excess of the amount insured by the federal deposit insurance corporation;
- (4) The public deposits preferred by this section are hereby granted a paramount, preferred and perfected first lien on the bank assets so deposited, or segregated or pledged.

Section 2. That § 52-5-20 be amended to read as follows:

52-5-20. No association or federal savings and loan association as defined in § 52-1-1 may give preference to any depositor or creditor by pledging the assets of the association as collateral security except as follows:

- (1) The association may deposit with the treasurer of the United States so much of its assets as may be necessary to qualify as a depository for federal funds and bankruptcy court funds;
- (2) An association, in order to qualify as a depository of funds deposited by the state, any political subdivision thereof, including counties, municipalities, townships and school districts, or by any officer, commission, board, bureau or agency of the state or political subdivision or any tribal government, shall segregate as security, investment securities as provided in §§ 51A-4-25 and 51A-4-26 or irrevocable standby letters of credit, or a surety bond in accordance with § 4-6A-3, a sum equal to one hundred ten percent of the amount deposited in excess of the amount insured by the federal deposit insurance corporation investment securities as provided in §§ 51A-4-25 and 51A-4-26;
- (3) An association may pledge securities to guarantee deposit of out-of-state municipal, school district, county or state funds in excess of the amount insured by the federal savings and loan insurance corporation;
- (4) The public deposits preferred by this section are hereby granted a paramount, preferred and perfected first lien on the association assets so deposited, or segregated or pledged.

Section 3. That § 4-6A-3 be amended to read as follows:

4-6A-3. Every qualified public depository shall at all times maintain, segregated from its other assets, eligible collateral having a value at least equal to its maximum liability under this chapter. Such collateral shall be segregated by deposit in such manner as the commission

approves. The collateral shall be clearly designated as security for the benefit of public depositors under this chapter and shall be pledged as collateral for those public deposit accounts which exceed deposit insurance. Irrevocable standby letters of credit or surety bonds shall be segregated or issued in such manner as the commission approves.

Section 4. That subdivision (3) of § 4-6A-1 be amended to read as follows:

- (3) "Eligible collateral," collateral which is eligible as security for public deposits pursuant to §§ 51A-10-9, 52-5-20, 51A-4-25, and 51A-4-26 and also includes that portion of loans which are unconditionally guaranteed by a United States government agency including Government National Mortgage Association (GNMA), the Veterans' Administration (VA), the Federal Housing Administration (FHA), the Farmers Home Administration (FmHA), the Export-Import Bank (EXIMBANK), the Overseas Private Investment Corporation (OPIC), the Commodity Credit Corporation (CCC), and the Small Business Administration (SBA). Further, in lieu of pledging eligible securities, a qualified public depository may furnish to a public depositor irrevocable standby letters of credit issued by Federal Home Loan Banks to the public depositor accompanied by a written evidence of that bank's public debt rating which may not be less than "AA" or better by Moody's Investors Service, Inc., or Standard & Poor's Corporation, or a qualified public depository may furnish to a public depositor a corporate surety bond of a corporation authorized to do business in South Dakota;

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1148

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1148

File No. _____

Chapter No. _____

Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State