

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

574A0574

HOUSE COMMERCE COMMITTEE ENGROSSED

NO. **HB1148** - 2/5/97

Introduced by: Representatives Broderick, Duxbury, and Pummel and Senators Munson  
(David) and Hunhoff

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to public deposits.

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

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

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

7 (1) The bank may deposit with the treasurer of the United States so much of its assets as  
8 may be necessary to qualify as a depository for federal funds and bankruptcy court  
9 funds;

10 (2) A bank, in order to qualify as a depository of funds deposited by the state, any  
11 political subdivision thereof, including counties, municipalities, townships and school  
12 districts, or by any officer, commission, board, bureau or agency of the state or  
13 political subdivision or any tribal government, shall segregate as security, investment  
14 securities as provided in §§ 51A-4-25 and 51A-4-26, or irrevocable standby letters  
15 of credit, or a surety bond, in accordance with § 4-6A-3, a sum equal to one hundred

1 ten percent of the amount deposited in excess of the amount insured by the Federal  
 2 Deposit Insurance Corporation, ~~investment securities as provided in §§ 51A-4-25 and~~  
 3 ~~51A-4-26;~~

4 (3) A bank may pledge securities to guarantee deposit of out-of-state municipal, school  
 5 district, county, or state funds in excess of the amount insured by the federal deposit  
 6 insurance corporation;

7 (4) The public deposits preferred by this section are hereby granted a paramount,  
 8 preferred and perfected first lien on the bank assets so deposited, or segregated or  
 9 pledged.

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

11 52-5-20. No association or federal savings and loan association as defined in § 52-1-1 may  
 12 give preference to any depositor or creditor by pledging the assets of the association as collateral  
 13 security except as follows:

14 (1) The association may deposit with the treasurer of the United States so much of its  
 15 assets as may be necessary to qualify as a depository for federal funds and bankruptcy  
 16 court funds;

17 (2) An association, in order to qualify as a depository of funds deposited by the state, any  
 18 political subdivision thereof, including counties, municipalities, townships and school  
 19 districts, or by any officer, commission, board, bureau or agency of the state or  
 20 political subdivision or any tribal government, shall segregate as security, investment  
 21 securities as provided in §§ 51A-4-25 and 51A-4-26 or irrevocable standby letters of  
 22 credit, or a surety bond in accordance with § 4-6A-3, a sum equal to one hundred ten  
 23 percent of the amount deposited in excess of the amount insured by the federal  
 24 ~~savings and loan~~ deposit insurance corporation investment securities as provided in  
 25 §§ 51A-4-25 and 51A-4-26;

1 (3) An association may pledge securities to guarantee deposit of out-of-state municipal,  
2 school district, county or state funds in excess of the amount insured by the federal  
3 savings and loan insurance corporation;

4 (4) The public deposits preferred by this section are hereby granted a paramount,  
5 preferred and perfected first lien on the association assets so deposited, or segregated  
6 or pledged.

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

8 4-6A-3. Every qualified public depository shall at all times maintain, segregated from its  
9 other assets, eligible collateral having a value at least equal to its maximum liability under this  
10 chapter. Such collateral shall be segregated by deposit in such manner as the commission  
11 approves. The collateral shall be clearly designated as security for the benefit of public depositors  
12 under this chapter and shall be pledged as collateral for those public deposit accounts which  
13 exceed deposit insurance. Irrevocable standby letters of credit or surety bonds shall be  
14 segregated or issued in such manner as the commission approves.

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

16 (3) "Eligible collateral," collateral which is eligible as security for public deposits pursuant  
17 to §§ 51A-10-9 ~~and~~ 52-5-20, 51A-4-25, and 51A-4-26 and also includes that portion  
18 of loans which are unconditionally guaranteed by a United States government agency  
19 including Government National Mortgage Association (GNMA), the Veterans'  
20 Administration (VA), the Federal Housing Administration (FHA), the Farmers Home  
21 Administration (FmHA), the Export-Import Bank (EXIMBANK), the Overseas  
22 Private Investment Corporation (OPIC), the Commodity Credit Corporation (CCC),  
23 and the Small Business Administration (SBA). Further, in lieu of pledging eligible  
24 securities, a qualified public depository may furnish to a public depositor irrevocable  
25 standby letters of credit issued by Federal Home Loan Banks to the public depositor

1 accompanied by a written evidence of that bank's public debt rating which may not be  
2 less than "AA" or better by Moody's Investors Service, Inc., or Standard & Poor's  
3 Corporation, or a qualified public depository may furnish to a public depositor a  
4 corporate surety bond of a corporation authorized to do business in South Dakota;  
5

1 **BILL HISTORY**

2 January 29 - First read in House and referred to Commerce. H.J. 195

3 February 4 - Scheduled for hearing.

4 February 4 - Passed as amended, AYES 12, NAYS 0. H.J. 289

5 February 4 - Placed on Consent. H.J. 288