

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

574A0574

## HOUSE BILL NO. 1148

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-4-26, or irrevocable standby letters of credit, or a  
15 surety bond, in accordance with § 4-6A-3, a sum equal to one hundred ten percent of

1 the amount deposited in excess of the amount insured by the Federal Deposit  
2 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-4-26 or irrevocable standby letters of credit, or a  
22 surety bond in accordance with § 4-6A-3, a sum equal to one hundred ten percent of  
23 the amount deposited in excess of the amount insured by the federal savings and loan  
24 insurance corporation investment securities as provided in §§ 51A-4-25 and  
25 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 § 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, and 51A-4-26 and also includes that portion of loans  
18 which are unconditionally guaranteed by a United States government agency including  
19 Government National Mortgage Association (GNMA), the Veterans' Administration  
20 (VA), the Federal Housing Administration (FHA), the Farmers Home Administration  
21 (FmHA), the Export-Import Bank (EXIMBANK), the Overseas Private Investment  
22 Corporation (OPIC), the Commodity Credit Corporation (CCC), and the Small  
23 Business Administration (SBA). Further, in lieu of pledging eligible securities, a  
24 qualified public depository may furnish to a public depositor irrevocable standby  
25 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;

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