

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 78
Final Reading

Introduced by Pahls, 31.

Read first time January 06, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Public Funds Deposit Security Act; to
2 amend sections 77-2387 and 77-2398, Reissue Revised
3 Statutes of Nebraska; to define a term; to harmonize
4 provisions; to repeal the original sections; and to
5 declare an emergency.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2387, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2387 For purposes of the Public Funds Deposit Security
4 Act, unless the context otherwise requires:

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

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

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

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

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

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

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

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

20 (9) Governmental unit means the State of Nebraska or any
21 political subdivision thereof;

22 (10) Political subdivision means any county, city,
23 village, township, district, authority, or other public corporation
24 or entity, whether organized and existing under direct provisions of
25 the Constitution of Nebraska or laws of the State of Nebraska or by

1 virtue of a charter, corporate articles, or other legal instruments
2 executed under authority of the constitution or laws, including any
3 entity created pursuant to the Interlocal Cooperation Act or the
4 Joint Public Agency Act;

5 ~~(10)~~(11) Qualifying mutual financial institution shall
6 have the same meaning as in section 77-2365.01;

7 ~~(11)~~(12) Repurchase agreement means an agreement to
8 purchase securities by the governing authority by which the
9 counterparty bank, capital stock financial institution, or qualifying
10 mutual financial institution will repurchase the securities on or
11 before a specified date and for a specified amount and the
12 counterparty bank, capital stock financial institution, or qualifying
13 mutual financial institution will deliver the underlying securities
14 to the governing authority by book entry, physical delivery, or
15 third-party custodial agreement. The transfer of underlying
16 securities to the counterparty bank's, capital stock financial
17 institution's, or qualifying mutual financial institution's customer
18 book entry account may be used for book entry delivery if the
19 governing authority so chooses; and

20 ~~(12)~~(13) Securities means:

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

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

- 1 (c) United States Government bonds;
- 2 (d) United States Government guaranteed bonds or notes;
- 3 (e) Bonds or notes of United States Government agencies;
- 4 (f) Bonds of any state or political subdivision which are
- 5 fully defeased as to principal and interest by any combination of
- 6 bonds or notes authorized in subdivision (c), (d), or (e) of this
- 7 subdivision;
- 8 (g) Bonds or obligations, including mortgage-backed
- 9 obligations, issued by the Federal Home Loan Mortgage Corporation,
- 10 the Federal Farm Credit System, a Federal Home Loan Bank, or the
- 11 Federal National Mortgage Association;
- 12 (h) Repurchase agreements the subject securities of which
- 13 are any of the securities described in subdivisions (a) through (g)
- 14 of this subdivision;
- 15 (i) Securities issued under the authority of the Federal
- 16 Farm Loan Act;
- 17 (j) Loan participations which carry the guarantee of the
- 18 Commodity Credit Corporation, an instrumentality of the United States
- 19 Department of Agriculture;
- 20 (k) Guaranty agreements of the Small Business
- 21 Administration of the United States Government;
- 22 (l) Bonds or obligations of any county, city, village,
- 23 metropolitan utilities district, public power and irrigation
- 24 district, sewer district, fire protection district, rural water
- 25 district, or school district in this state which have been issued as

1 required by law;

2 (m) Bonds of the State of Nebraska or of any other state
3 which are purchased by the Board of Educational Lands and Funds of
4 this state for investment in the permanent school fund or which are
5 purchased by the state investment officer of this state for
6 investment in the permanent school fund;

7 (n) Bonds or obligations of another state, or a political
8 subdivision of another state, which are rated within the two highest
9 classifications of prime by at least one of the standard rating
10 services;

11 (o) Warrants of the State of Nebraska;

12 (p) Warrants of any county, city, village, local hospital
13 district, or school district in this state;

14 (q) Irrevocable, nontransferable, unconditional standby
15 letters of credit issued by the Federal Home Loan Bank of Topeka; and

16 (r) Certificates of deposit fully insured or guaranteed
17 by the Federal Deposit Insurance Corporation that are issued to a
18 bank, capital stock financial institution, or qualifying mutual
19 financial institution furnishing securities pursuant to the Public
20 Funds Deposit Security Act.

21 Sec. 2. Section 77-2398, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-2398 (1) As an alternative to the requirements to
24 secure the deposit of public money or public funds in excess of the
25 amount insured or guaranteed by the Federal Deposit Insurance

1 Corporation pursuant to sections 77-2389 and 77-2394, a bank, capital
2 stock financial institution, or qualifying mutual financial
3 institution designated as a public depository may secure the deposits
4 of one or more governmental units by providing a deposit guaranty
5 bond or by depositing, pledging, or granting a security interest in a
6 single pool of securities to secure the repayment of all public money
7 or public funds deposited in the bank, capital stock financial
8 institution, or qualifying mutual financial institution by such
9 governmental units and not otherwise secured pursuant to law, if at
10 all times the total value of the deposit guaranty bond is at least
11 equal to the amount on deposit which is in excess of the amount so
12 insured or guaranteed or the aggregate market value of the pool of
13 securities so deposited, pledged, or in which a security interest is
14 granted is at least equal to one hundred five percent of the amount
15 on deposit which is in excess of the amount so insured or guaranteed.
16 Each such bank, capital stock financial institution, or qualifying
17 mutual financial institution shall carry on its accounting records at
18 all times a general ledger or other appropriate account of the total
19 amount of all public money or public funds to be secured by a deposit
20 guaranty bond or by the pool of securities, as determined at the
21 opening of business each day, and the total value of the deposit
22 guaranty bond or the aggregate market value of the pool of securities
23 deposited, pledged, or in which a security interest is granted to
24 secure such public money or public funds.

25 (2) Only the securities listed in subdivision ~~(12)~~(13)

1 of section 77-2387 may be provided and accepted as security for the
2 deposit of public money or public funds and shall be eligible as
3 collateral. The qualified trustee shall accept no security which is
4 not listed in subdivision ~~(12)~~(13) of section 77-2387.

5 Sec. 3. Original sections 77-2387 and 77-2398, Reissue
6 Revised Statutes of Nebraska, are repealed.

7 Sec. 4. Since an emergency exists, this act takes effect
8 when passed and approved according to law.