

LEGISLATIVE BILL 275

Approved by the Governor March 10, 1997

Introduced by Jensen, 20; Witek, 31

AN ACT relating to the investment of public funds; to amend sections 72-1262, 77-2387, and 77-2391, Reissue Revised Statutes of Nebraska; to change provisions relating to the Nebraska Capital Expansion Act and the Public Funds Deposit Security Act; to repeal the original sections; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 72-1262, Reissue Revised Statutes of Nebraska, is amended to read:

72-1262. For purposes of the Nebraska Capital Expansion Act, unless the context otherwise requires:

(1) Bank shall mean any national bank with its principal office or a branch in this state or any bank which is chartered to conduct a bank in this state as provided by sections 8-115 and 8-116 or any branch thereof;

(2) Building and loan association shall mean any building and loan association organized under Chapter 8, article 3, or any federal savings and loan association with its principal office in this state;

(3) Time deposit open account shall mean a bank account or a deposit with a building and loan association with respect to which there is in force a written contract which provides that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which date shall be not less than thirty days after the date of the deposit, or prior to the expiration of the period of notice which shall be given by the state investment officer in writing not less than thirty days in advance of withdrawal. The time deposit open account contract shall be uniform and shall be furnished by the state investment officer with prior approval of such form by the Federal Deposit Insurance Corporation to each bank and building and loan association for execution;

(4) Equity capital shall mean capital, surplus, undivided profits, federal insurance reserves, and contingency reserves; and

(5) Funds available for investment shall mean all funds over which the state investment officer has investment jurisdiction less those funds necessary for operations and except those funds which are eligible for long-term investment.

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

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

(1) Bank means any state-chartered or federally chartered bank which has a main chartered office or branch in this state;

(2) Capital stock financial institution means a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, a capital stock industrial loan and investment company, and a capital stock state savings bank which has a main chartered office in this state;

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

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

(5) Governing authority means the official, or the governing board, council, or other body or group of officials, authorized to designate a bank or capital stock financial institution as a depository of public money or public funds subject to the act; and

(6) Securities means:

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

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

(c) United States Government bonds;

(d) United States Government guaranteed bonds or notes;

(e) Bonds or notes of United States Government agencies;

(f) Bonds of any state or political subdivision which are fully defeased as to principal and interest by any combination of bonds or notes authorized in subdivision (c), (d), or (e) of this subdivision;

(g) Bonds or obligations, including mortgage-backed obligations, issued by the Federal Home Loan Mortgage Corporation, the federal farm credit system, the Federal Home Loan Bank Board, or the Federal National Mortgage Association;

(h) Securities issued under the authority of the Federal Farm Loan Act;

(i) Loan participations which carry the guarantee of the Commodity Credit Corporation, an instrumentality of the United States Department of Agriculture;

(j) Guaranty agreements of the Small Business Administration of the United States Government;

(k) Bonds or obligations of any county, city, village, metropolitan utilities district, public power and irrigation district, sewer district, fire protection district, rural water district, or school district in this state which have been issued and registered as required by law or which have been issued under the direction and with the approval of the Auditor of Public Accounts;

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

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

(n) Warrants of the State of Nebraska; and

(o) Warrants of any county, city, village, local hospital district, or school district in this state; and

(p) Irrevocable, nontransferable, unconditional standby letters of credit issued by the Federal Home Loan Bank of Topeka.

Sec. 3. Section 77-2391, Reissue Revised Statutes of Nebraska, is amended to read:

77-2391. (1) Securities pledged or securities in which a security interest has been granted shall be delivered to and held by a federal reserve bank or by a branch of a federal reserve bank or another responsible bank, capital stock financial institution, or trust company, ~~within this state,~~ other than the pledgor or the bank or capital stock financial institution granting the security interest, as designated by the governing authority, with appropriate joint custody and the pledge agreement or security interest as described in subsection (2) of this section, in a form approved by the governing authority.

(2) The delivery by the bank or capital stock financial institution designated as a depository to the custodial official of a written receipt or acknowledgment from a federal reserve bank or branch of a federal reserve bank or another bank, capital stock financial institution, or trust company, ~~in this state,~~ other than the bank or capital stock financial institution granting the security interest, that includes the title of such custodial official, describes the securities identified on the books or records of the depository, and provides that the securities or the proceeds of the securities will be delivered only upon the surrender of the written receipt or the acknowledgment duly executed by the custodial official designated on the written receipt or the acknowledgment and by the authorized representative of the depository shall, together with the custodial official's actual and continued possession of the written receipt or acknowledgment, constitute a valid and perfected security interest in favor of the custodial official in and to the identified securities. Articles 8 and 9, Uniform Commercial Code, shall not apply to any security interest arising under this section.

Sec. 4. Original sections 72-1262, 77-2387, and 77-2391, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 5. Since an emergency exists, this act takes effect when passed and approved according to law.