

SUBSTITUTE FOR  
SENATE BILL NO. 455

A bill to amend 1932 (1stEx Sess) PA 40, entitled

"An act to provide for the designation of depositories for public moneys; to prescribe the effect thereof on the liability for such deposits; to suspend the requirement of surety bonds from depositories of public moneys; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

by amending sections 1, 2, 4, and 6 (MCL 129.11, 129.12, 129.14, and 129.16), sections 2 and 4 as amended and section 6 as added by 1997 PA 33; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. ~~All moneys which shall come into the hands of any~~  
2   **EXCEPT AS OTHERWISE PROVIDED BY LAW, MONEY COLLECTED OR RECEIVED BY**  
3   **AN** officer of ~~any county, or of any township, school district, city~~  
4   ~~or village, or of any other municipal or public corporation within~~  
5   **A LOCAL PUBLIC ENTITY IN** this state, pursuant to any provision of

1 law authorizing ~~such~~ **THE** officer to collect or receive the ~~same~~,  
 2 ~~shall be denominated public moneys within the meaning of this~~  
 3 ~~act.~~ **MONEY, IS PUBLIC MONEY FOR THE PURPOSES OF THIS ACT. AN OFFICER**  
 4 **OF A LOCAL PUBLIC ENTITY AUTHORIZED TO DEPOSIT PUBLIC MONEY**  
 5 **COLLECTED OR RECEIVED BY THE LOCAL PUBLIC ENTITY SHALL AS SOON AS**  
 6 **PRACTICABLE DEPOSIT THE PUBLIC MONEY COLLECTED OR RECEIVED IN 1 OR**  
 7 **MORE FINANCIAL INSTITUTIONS DESIGNATED UNDER THIS ACT. THIS SECTION**  
 8 **DOES NOT PREVENT A COUNTY TREASURER FROM KEEPING ON HAND A**  
 9 **REASONABLE AMOUNT OF MONEY NECESSARY TO CONDUCT THE AFFAIRS OF HIS**  
 10 **OR HER OFFICE.**

11       Sec. 2. (1) ~~The county board of commissioners, or board of~~  
 12 ~~county auditors in a county in which there is a board of county~~  
 13 ~~auditors, the township board of a township, the district board, or~~  
 14 ~~board of education of a school district, or the legislative body of~~  
 15 ~~a city or village shall provide by~~ **GOVERNING BODY OF A LOCAL PUBLIC**  
 16 **ENTITY SHALL ADOPT A** resolution ~~for the designation and deposit of~~  
 17 **DESIGNATING 1 OR MORE FINANCIAL INSTITUTIONS OR TYPES OF FINANCIAL**  
 18 **INSTITUTIONS THAT MEET THE REQUIREMENTS UNDER SUBSECTION (2) AS**  
 19 **DEPOSITORIES OF public money OF THE LOCAL PUBLIC ENTITY, including,**  
 20 **BUT NOT LIMITED TO, tax money, coming into the possession of the**  
 21 ~~county treasurer, township treasurer, school district treasurer,~~  
 22 ~~city treasurer or tax collector, or village treasurer, in 1 or more~~  
 23 ~~financial institutions in the proportion and manner as may be~~  
 24 ~~provided in the resolution.~~ **BEFORE ADOPTING A RESOLUTION UNDER THIS**  
 25 **SUBSECTION, THE GOVERNING BODY OF THE LOCAL PUBLIC ENTITY SHALL**  
 26 **CONSIDER ANY RECOMMENDATION SUBMITTED BY THE TREASURER OF THE LOCAL**  
 27 **PUBLIC ENTITY UNDER SUBSECTION (3). THE DESIGNATION OF A FINANCIAL**

1 INSTITUTION AS A DEPOSITORY OF PUBLIC MONEY UNDER THIS SUBSECTION  
2 APPLIES TO A SUCCESSOR OF THE FINANCIAL INSTITUTION PURSUANT TO ANY  
3 MERGER OR ACQUISITION.

4 (2) TO BE DESIGNATED AS A DEPOSITORY OF PUBLIC MONEY BY A  
5 LOCAL PUBLIC ENTITY UNDER SUBSECTION (1), A FINANCIAL INSTITUTION  
6 MUST MEET EITHER OF THE FOLLOWING:

7 (A) THE FINANCIAL INSTITUTION MAINTAINS A PRINCIPAL OFFICE OR  
8 BRANCH OFFICE LOCATED IN THIS STATE UNDER THE LAWS OF THIS STATE OR  
9 THE UNITED STATES.

10 (B) THE FINANCIAL INSTITUTION DOES NOT MAINTAIN A PRINCIPAL  
11 OFFICE OR BRANCH OFFICE LOCATED IN THIS STATE AND ALL OF THE  
12 FOLLOWING APPLY:

13 (i) THE LOCAL PUBLIC ENTITY HAS A GEOGRAPHIC BOUNDARY  
14 BORDERING ANOTHER STATE.

15 (ii) THE FINANCIAL INSTITUTION MAINTAINS A PRINCIPAL OFFICE OR  
16 BRANCH OFFICE IN THE BORDERING STATE UNDER THE LAWS OF THIS STATE  
17 OR THE UNITED STATES.

18 (iii) THERE IS NO PRINCIPAL OFFICE OR BRANCH OFFICE OF A  
19 FINANCIAL INSTITUTION THAT MAINTAINS A PRINCIPAL OFFICE OR BRANCH  
20 OFFICE IN THE LOCAL PUBLIC ENTITY.

21 (3) A TREASURER OF A LOCAL PUBLIC ENTITY MAY RECOMMEND TO THE  
22 GOVERNING BODY OF THAT LOCAL PUBLIC ENTITY 1 OR MORE FINANCIAL  
23 INSTITUTIONS THAT MEET THE REQUIREMENTS OF SUBSECTION (2) FOR  
24 DESIGNATION AS A DEPOSITORY OF PUBLIC MONEY, USING A PROCUREMENT  
25 PROCESS THAT IS CONSISTENT WITH BEST PRACTICES FOR PROCUREMENT OF  
26 BANKING SERVICES BY THAT TYPE OF LOCAL PUBLIC ENTITY, INCLUDING,  
27 BUT NOT LIMITED TO, THE PRACTICES ESTABLISHED BY THE GOVERNMENT

**FINANCE OFFICERS ASSOCIATION OR THE ASSOCIATION OF PUBLIC  
TREASURERS OF THE UNITED STATES AND CANADA.**

(4) ~~(2)~~—Assets acceptable for pledging to secure deposits of public funds are limited to any of the following:

(a) Assets considered acceptable to the state treasurer under section 3 of 1855 PA 105, MCL 21.143, to secure deposits of state surplus funds.

(b) Any of the following:

(i) Securities issued by the ~~federal home loan mortgage corporation.~~ **FEDERAL HOME LOAN MORTGAGE CORPORATION.**

(ii) Securities issued by the ~~federal national mortgage association.~~ **FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

(iii) Securities issued by the ~~government national mortgage association.~~ **GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.**

(c) Other securities considered acceptable to the depositor of public funds and the financial institution.

(5) ~~(3)~~—All proceedings in connection with the deposit of **PUBLIC** money shall ~~shall~~ **MUST** be conducted and be governed under section ~~4~~ **THIS ACT** and **UNDER** applicable law not in conflict with this act. Upon designation of ~~a~~ **1 OR MORE** financial ~~institution or~~ institutions in ~~compliance with this act, the~~ **OR TYPES OF FINANCIAL INSTITUTIONS UNDER SUBSECTION (1), A** treasurer ~~or tax collector OF~~ **A LOCAL PUBLIC ENTITY** shall deposit all ~~funds coming into the~~ treasurer's possession, including tax money in the treasurer's name ~~as treasurer or tax collector, and~~ **PUBLIC MONEY COLLECTED OR RECEIVED IN THE DESIGNATED FINANCIAL INSTITUTION OR INSTITUTIONS** in the proportion and manner as may be provided by the resolution.

1           (6) ~~(4) As to IF a deposit or deposits IS~~ made in a designated  
 2 financial institution in accordance with the resolution **ADOPTED**  
 3 **UNDER SUBSECTION (1)**, ~~neither the treasurer or tax collector, nor~~  
 4 **OF THE LOCAL PUBLIC ENTITY AND** the sureties on ~~their respective~~  
 5 ~~bonds, shall be~~ **THE TREASURER'S BONDS ARE NOT** liable for a loss  
 6 occasioned or sustained by the failure or default of the designated  
 7 financial institution. This exemption from liability ~~shall apply~~  
 8 **APPLIES** even ~~though a requirement of a statute~~ **IF APPLICABLE LAW**  
 9 provides for the furnishing of a bond by ~~depositories of public~~  
 10 ~~money. A FINANCIAL INSTITUTION.~~ The treasurer ~~or tax collector OF A~~  
 11 **LOCAL PUBLIC ENTITY** and the sureties on ~~their respective~~ **THE**  
 12 **TREASURER'S** bonds ~~shall be~~ **ARE** liable for all money not deposited  
 13 **AS PROVIDED** under this act.

14           Sec. 4. (1) Notwithstanding section 2, additional ~~funds coming~~  
 15 ~~into the possession of a county treasurer, township treasurer,~~  
 16 ~~school district treasurer, city treasurer or tax collector, or~~  
 17 ~~village treasurer shall~~ **MONEY COLLECTED OR RECEIVED BY A TREASURER**  
 18 **OF A LOCAL PUBLIC ENTITY MUST** not be deposited or invested in a  
 19 financial institution that is not eligible to be a depository of  
 20 surplus funds ~~belonging to the~~ **OF THIS** state under section 6 of  
 21 1855 PA 105, MCL 21.146.

22           (2) **AN OFFICER OF A LOCAL PUBLIC ENTITY RESPONSIBLE FOR**  
 23 **DEPOSITING MONEY BELONGING TO THE LOCAL PUBLIC ENTITY SHALL KEEP**  
 24 **ALL ACCOUNTS AT A FINANCIAL INSTITUTION DESIGNATED UNDER THIS ACT**  
 25 **UPON THE REGULAR BOOKS OR RECORDS OF THE OFFICER SO THAT EACH ITEM**  
 26 **OF ALL ACCOUNTS APPEAR ON THE BOOKS OR RECORDS AND SHALL MAINTAIN A**  
 27 **CASH CONTROL LEDGER RECORDING DEPOSIT AND INVESTMENT ACTIVITY**

1 AFFECTING THE MONEY, INCLUDING, BUT NOT LIMITED TO, A RECORD OF THE  
 2 CASH AND INVESTMENT EQUITY OF EACH FUND OF THE LOCAL PUBLIC ENTITY.  
 3 MONEY DEPOSITED WITH A TREASURER UNDER THIS ACT, INCLUDING ANY  
 4 SURPLUS MONEY, MUST BE DEPOSITED IN A FINANCIAL INSTITUTION  
 5 DESIGNATED BY THE LOCAL PUBLIC ENTITY UNDER THIS ACT OR BE INVESTED  
 6 BY THE TREASURER AS INVESTMENT OFFICER FOR THE LOCAL PUBLIC ENTITY  
 7 IN A MANNER THAT COMPLIES WITH 1943 PA 20, MCL 129.91 TO 129.97A.

8 Sec. 6. ~~(1)~~ As used in this act: ~~,"financial institution"~~

9 (A) "DEPOSIT" INCLUDES THE PURCHASE OF OR INVESTMENT IN SHARES  
 10 OF A CREDIT UNION.

11 (B) "FINANCIAL INSTITUTION" means a state or nationally  
 12 chartered bank or a state or federally chartered savings and loan  
 13 association, savings bank, or credit union whose deposits are  
 14 insured by an agency of the United States government. ~~and, except~~  
 15 ~~as provided in subsection (2), maintains a principal office or~~  
 16 ~~branch office located in this state under the laws of this state or~~  
 17 ~~the United States.~~

18 ~~—— (2) A governmental unit described in section 2 may designate~~  
 19 ~~and deposit public money, including tax money, in 1 or more~~  
 20 ~~financial institutions that do not maintain a principal office or~~  
 21 ~~branch office in this state if all of the following apply:~~

22 ~~—— (a) The governmental unit borders another state.~~

23 ~~—— (b) The financial institution maintains a principal office or~~  
 24 ~~branch office in the border state under the laws of this state or~~  
 25 ~~the United States.~~

26 ~~—— (c) There is no principal office or branch office of a state~~  
 27 ~~or nationally chartered bank or a state or federally chartered~~

~~savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government that maintains a principal office or a branch office in the governmental unit.~~

(C) "GOVERNING BODY" MEANS A COUNCIL, COMMISSION, BOARD, OR OTHER OFFICIAL BODY THAT HAS LEGISLATIVE POWERS OVER A LOCAL PUBLIC ENTITY.

(D) "LOCAL PUBLIC ENTITY" MEANS A COUNTY, CITY, VILLAGE, TOWNSHIP, SCHOOL DISTRICT, DISTRICT, AUTHORITY, MUNICIPAL CORPORATION, OR ANY OTHER POLITICAL SUBDIVISION ORGANIZED UNDER THE LAWS OF THIS STATE.

Enacting section 1. Section 5 of 1932 (1st Ex Sess) PA 40, MCL 129.15, is repealed.

Enacting section 2. 1909 PA 99, MCL 129.31 to 129.40, is repealed.

Enacting section 3. This amendatory act takes effect 90 days after the date it is enacted into law.