

# SENATE BILL No. 455

June 14, 2017, Introduced by Senators CONYERS and CASPERSON and referred to the Committee on Local Government.

A bill to amend 1932 (1st Ex 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 THE OFFICER OF A LOCAL PUBLIC ENTITY AUTHORIZED TO**  
9 **DEPOSIT PUBLIC MONEY COLLECTED OR RECEIVED BY THE LOCAL PUBLIC**  
10 **ENTITY FROM KEEPING ON HAND A REASONABLE AMOUNT OF MONEY NECESSARY**  
11 **TO CONDUCT THE AFFAIRS OF HIS OR HER OFFICE.**

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

27       **(2) TO BE DESIGNATED AS A DEPOSITORY OF PUBLIC MONEY BY A**

1 LOCAL PUBLIC ENTITY UNDER SUBSECTION (1), A FINANCIAL INSTITUTION  
2 MUST MEET EITHER OF THE FOLLOWING:

3 (A) THE FINANCIAL INSTITUTION MAINTAINS A PRINCIPAL OFFICE OR  
4 BRANCH OFFICE LOCATED IN THIS STATE UNDER THE LAWS OF THIS STATE OR  
5 THE UNITED STATES.

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

9 (i) THE LOCAL PUBLIC ENTITY HAS A GEOGRAPHIC BOUNDARY  
10 BORDERING ANOTHER STATE.

11 (ii) THE FINANCIAL INSTITUTION MAINTAINS A PRINCIPAL OFFICE OR  
12 BRANCH OFFICE IN THE BORDERING STATE UNDER THE LAWS OF THIS STATE  
13 OR THE UNITED STATES.

14 (iii) THERE IS NO PRINCIPAL OFFICE OR BRANCH OFFICE OF A  
15 FINANCIAL INSTITUTION THAT MAINTAINS A PRINCIPAL OFFICE OR BRANCH  
16 OFFICE IN THE LOCAL PUBLIC ENTITY.

17 (3) A TREASURER OF A LOCAL PUBLIC ENTITY SHALL RECOMMEND TO  
18 THE GOVERNING BODY OF THAT LOCAL PUBLIC ENTITY 1 OR MORE FINANCIAL  
19 INSTITUTIONS THAT MEET THE REQUIREMENTS OF SUBSECTION (2) FOR  
20 DESIGNATION AS A DEPOSITORY OF PUBLIC MONEY, USING A PROCUREMENT  
21 PROCESS THAT IS CONSISTENT WITH BEST PRACTICES FOR PROCUREMENT OF  
22 BANKING SERVICES BY LOCAL GOVERNMENTS, INCLUDING, BUT NOT LIMITED  
23 TO, THE PRACTICES ESTABLISHED BY THE GOVERNMENT FINANCE OFFICERS  
24 ASSOCIATION OR THE ASSOCIATION OF PUBLIC TREASURERS OF THE UNITED  
25 STATES AND CANADA.

26 (4) ~~(2)~~ Assets acceptable for pledging to secure deposits of  
27 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~~ **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.

(6) ~~(4)~~ As to ~~IF~~ a deposit ~~or deposits~~ **IS** made in a designated financial institution in accordance with the resolution **ADOPTED UNDER SUBSECTION (1), neither the treasurer or tax collector, nor OF THE LOCAL PUBLIC ENTITY AND** the sureties on their respective

~~bonds, shall be~~ **THE TREASURER'S BONDS ARE NOT** liable for a loss  
occasioned or sustained by the failure or default of the designated  
financial institution. This exemption from liability ~~shall apply~~  
**APPLIES** even ~~though a requirement of a statute~~ **IF APPLICABLE LAW**  
provides for the furnishing of a bond by ~~depositories of public~~  
~~money.~~ **A FINANCIAL INSTITUTION.** The treasurer ~~or tax collector~~ **OF A**  
**LOCAL PUBLIC ENTITY** and the sureties on ~~their respective~~ **THE**  
**TREASURER'S** bonds ~~shall be~~ **ARE** liable for all money not deposited  
**AS PROVIDED** under this act.

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

(2) **AN OFFICER OF A LOCAL PUBLIC ENTITY RESPONSIBLE FOR**  
**DEPOSITING MONEY BELONGING TO THE LOCAL PUBLIC ENTITY SHALL KEEP**  
**ALL ACCOUNTS AT A FINANCIAL INSTITUTION DESIGNATED UNDER THIS ACT**  
**UPON THE REGULAR BOOKS OR RECORDS OF THE OFFICER SO THAT EACH ITEM**  
**OF ALL ACCOUNTS APPEAR ON THE BOOKS OR RECORDS AND SHALL MAINTAIN A**  
**CASH CONTROL LEDGER RECORDING DEPOSIT AND INVESTMENT ACTIVITY**  
**AFFECTING THE MONEY, INCLUDING, BUT NOT LIMITED TO, A RECORD OF THE**  
**CASH AND INVESTMENT EQUITY OF EACH FUND OF THE LOCAL PUBLIC ENTITY.**  
**MONEY DEPOSITED WITH A TREASURER UNDER THIS ACT, INCLUDING ANY**  
**SURPLUS MONEY, MUST BE INVESTED BY THE TREASURER AS INVESTMENT**

1 OFFICER FOR THE LOCAL PUBLIC ENTITY IN A MANNER THAT COMPLIES WITH  
2 1943 PA 20, MCL 129.91 TO 129.97A.

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

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

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

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

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

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

21 ~~—— (c) There is no principal office or branch office of a state~~  
22 ~~or nationally chartered bank or a state or federally chartered~~  
23 ~~savings and loan association, savings bank, or credit union whose~~  
24 ~~deposits are insured by an agency of the United States government~~  
25 ~~that maintains a principal office or a branch office in the~~  
26 ~~governmental unit.~~

27 (C) "GOVERNING BODY" MEANS A COUNCIL, COMMISSION, BOARD, OR

1 OTHER OFFICIAL BODY THAT HAS LEGISLATIVE POWERS OVER A LOCAL PUBLIC  
2 ENTITY.

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

7 Enacting section 1. Section 5 of 1932 (1st Ex Sess) PA 40, MCL  
8 129.15, is repealed.

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

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