

Act No. 462
Public Acts of 2018
Approved by the Governor
December 26, 2018
Filed with the Secretary of State
December 27, 2018
EFFECTIVE DATE: March 29, 2019

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senators Conyers and Casperson

ENROLLED SENATE BILL No. 455

AN ACT 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:

Sec. 1. Except as otherwise provided by law, money collected or received by an officer of a local public entity in this state, pursuant to any provision of law authorizing the officer to collect or receive the money, is public money for the purposes of this act. An officer of a local public entity authorized to deposit public money collected or received by the local public entity shall as soon as practicable deposit the public money collected or received in 1 or more financial institutions designated under this act. This section does not prevent a county treasurer from keeping on hand a reasonable amount of money necessary to conduct the affairs of his or her office.

Sec. 2. (1) The governing body of a local public entity shall adopt a resolution designating 1 or more financial institutions or types of financial institutions that meet the requirements under subsection (2) as depositories of public money of the local public entity, including, but not limited to, tax money, in the proportion and manner as may be provided in the resolution. Before adopting a resolution under this subsection, the governing body of the local public entity shall consider any recommendation submitted by the treasurer of the local public entity under subsection (3). The designation of a financial institution as a depository of public money under this subsection applies to a successor of the financial institution pursuant to any merger or acquisition.

(2) To be designated as a depository of public money by a local public entity under subsection (1), a financial institution must meet either of the following:

(a) The financial institution maintains a principal office or branch office located in this state under the laws of this state or the United States.

(b) The financial institution does not maintain a principal office or branch office located in this state and all of the following apply:

(i) The local public entity has a geographic boundary bordering another state.

(ii) The financial institution maintains a principal office or branch office in the bordering state under the laws of this state or the United States.

(iii) There is no principal office or branch office of a financial institution that maintains a principal office or branch office in the local public entity.

(3) A treasurer of a local public entity may recommend to the governing body of that local public entity 1 or more financial institutions that meet the requirements of subsection (2) for designation as a depository of public money, using a procurement process that is consistent with best practices for procurement of banking services by that type of local public entity, including, 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) 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.

(ii) Securities issued by the Federal National Mortgage Association.

(iii) Securities issued by the Government National Mortgage Association.

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

(5) All proceedings in connection with the deposit of public money must be conducted and governed under this act and under applicable law not in conflict with this act. Upon designation of 1 or more financial institutions or types of financial institutions under subsection (1), a treasurer of a local public entity shall deposit all 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) If a deposit is made in a designated financial institution in accordance with the resolution adopted under subsection (1), the treasurer of the local public entity and the sureties on 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 applies even if applicable law provides for the furnishing of a bond by a financial institution. The treasurer of a local public entity and the sureties on the treasurer's bonds are liable for all money not deposited as provided under this act.

Sec. 4. (1) Notwithstanding section 2, additional 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 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 deposited in a financial institution designated by the local public entity under this act or be invested by the treasurer as investment officer for the local public entity in a manner that complies with 1943 PA 20, MCL 129.91 to 129.97a.

Sec. 6. As used in this act:

(a) "Deposit" includes the purchase of or investment in shares of a credit union.

(b) "Financial institution" means a state 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.

(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.

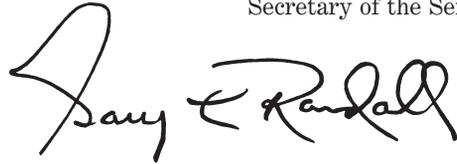
Enacting section 1. Section 5 of 1932 (1st Ex Sess) PA 40, MCL 129.15, is repealed.

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.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor