

DEPOSITORIES FOR PUBLIC MONEYS (EXCERPT)

Act 40 of 1932 (1st Ex. Sess.)

129.12 Resolution providing for designation and deposit of public money; financial institution requirements; limitation on acceptable assets; conduct of proceedings; designation of depositories; deposit of funds; liability.

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.

History: 1932, 1st Ex. Sess., Act 40, Imd. Eff. May 14, 1932;—CL 1948, 129.12;—Am. 1979, Act 84, Imd. Eff. Aug. 1, 1979;—Am. 1997, Act 31, Imd. Eff. June 19, 1997;—Am. 1997, Act 33, Imd. Eff. June 19, 1997;—Am. 2018, Act 462, Eff. Mar. 29, 2019.