

HOUSE BILL NO. 1374

Introduced by

Representatives Wald, Clark, Nicholas

Senators Espgaard, Klein

1 A BILL for an Act to amend and reenact section 21-04-09 of the North Dakota Century Code,
2 relating to security for the repayment of deposits of public funds.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 21-04-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **21-04-09. Pledge of security in place of depository bond.** The board of any public
7 corporation may accept from any financial institution, as security for repayment of deposits, a
8 pledge of securities in lieu of a personal or surety bond. When securities are so pledged to the
9 board of any public corporation, the board shall require security in the amount of one hundred
10 ten dollars for every one hundred dollars of public deposits. Securities that are eligible for the
11 pledge are bills, notes, or bonds issued by the United States government, its agencies or
12 instrumentalities, all bonds and notes guaranteed by the United States government, irrevocable
13 standby letters of credit issued by federal home loan banks of a rating of AA or better by
14 Moody's Investors Service, Inc. or Standard & Poor's Corporation, federal land bank bonds,
15 bonds, notes, warrants, certificates of indebtedness, insured certificates of deposit, shares of
16 investment companies registered under the Investment Companies Act of 1940, letters of credit
17 issued by the Bank of North Dakota, and all other forms of securities issued by the state of
18 North Dakota, its boards, agencies, or instrumentalities, or by any county, city, township, school
19 district, park district, or other political subdivision of the state of North Dakota, whether payable
20 from special revenues or supported by the full faith and credit of the issuing body, and bonds
21 issued by any other state of the United States or such other securities approved by the banking
22 board. The securities and securities sold under agreements to repurchase as described in
23 section 21-06-07 must be delivered to and held for safekeeping by any financial institution,
24 other than the depository, which the depository and the public corporation may agree upon.

1 Whenever any securities are so deposited for safekeeping with any custodian, the custodian
2 shall issue a receipt therefor jointly to the depository and the public corporation.

3 Any financial institution pledging securities, at any time it deems it advisable or
4 desirable, and without the consent of the board of the public corporation, may substitute other
5 eligible securities for all or any part of the securities pledged. The securities substituted must,
6 at the time of the substitution, have a market value at least equal to the market value of the
7 securities released and delivered to the depository.

8 In the event of the substitution the holder or custodian of the pledged securities shall, on
9 the same day, forward by registered mail to the public corporation and the depository financial
10 institution a receipt specifically describing and identifying both the securities substituted and
11 those released and returned to the depository financial institution.

12 A depository financial institution may fulfill the pledge of securities requirements of this
13 section by maintaining a security pledge schedule that establishes the following:

- 14 1. The names of all public bodies maintaining deposits with the financial institution.
- 15 2. The amount of each deposit maintained by each public body.
- 16 3. The amount of federal deposit insurance corporation insurance applied to each
17 account.
- 18 4. The net deposits exceeding federal deposit insurance corporation coverage for
19 each account.
- 20 5. The amount of net deposit exceeding federal deposit insurance corporation deposit
21 insurance multiplied by one hundred ten percent for each account.
- 22 6. The amount of securities needed to be pledged to fulfill the requirements of this
23 section.
- 24 7. The total number of qualified securities pledged by the financial institution under
25 the requirements of this section.

26 A financial institution is in compliance with this section as long as the security pledge
27 schedule discloses the total qualified securities pledged in excess of the total pledges needed
28 for a total amount of deposits maintained by all the public bodies with the financial institution as
29 verified by the custodian of the securities every three months and copies thereof are provided to
30 the custodian of the securities and to each of the public corporations maintaining deposits with
31 the financial institution.

1 No pledge of security or bond may be required for any funds deposited with a financial
2 institution to the extent that the deposits are insured by the federal deposit insurance
3 corporation or the national credit union administration or an insurance company that is qualified
4 to offer excess deposit insurance in this state and which has a rating of A- or better by A.M.
5 Best Company Inc., or the equivalent rating by another recognized rating organization as
6 determined by the insurance commissioner.