

HOUSE BILL NO. 1112
with Senate Amendments
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Introduced by

Judiciary Committee

(At the request of the Bank of North Dakota)

1 A BILL for an Act to amend and reenact section 21-04-09 and subsection 1 of section 21-06-07
2 of the North Dakota Century Code, relating to public deposits.

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.**

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

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

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

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

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

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

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

1 the custodian of the securities and to each of the public corporations maintaining deposits with
2 the financial institution.

3 No pledge of security or bond may be required for any funds deposited with a financial
4 institution directly or by a financial institution's participation as a member of a ~~reciprocal~~ deposit
5 placement service to the extent that the deposits are insured or guaranteed by the federal
6 deposit insurance corporation or the national credit union administration as determined by the
7 commissioner of financial institutions or an insurance company that is qualified to offer excess
8 deposit insurance in this state and which has a rating of A- or better by A.M. Best Company Inc.,
9 or the equivalent rating by another recognized rating organization as determined by the
10 insurance commissioner.

11 **SECTION 2. AMENDMENT.** Subsection 1 of section 21-06-07 of the North Dakota Century
12 Code is amended and reenacted as follows:

- 13 1. Counties, cities, school districts, park districts, and townships in this state may invest
14 moneys in their general fund, or balances in any special or temporary fund, in:
- 15 a. Bonds, treasury bills and notes, or other securities that are a direct obligation of,
16 or an obligation insured or guaranteed by, the treasury of the United States, or its
17 agencies, instrumentalities, or organizations created by an act of Congress.
 - 18 b. Securities sold under agreements to repurchase written by a financial institution
19 in which the underlying securities for the agreement to repurchase are of a type
20 listed above.
 - 21 c. Certificates of deposit fully insured by the federal deposit insurance corporation
22 or by the state.
 - 23 d. Obligations of the state.
 - 24 e. Certificates of deposit fully insured or guaranteed by the federal deposit
25 insurance corporation and placed for the benefit of the public depositor by a
26 public depository through an appropriate ~~reciprocal~~ deposit placement service as
27 determined by the commissioner of financial institutions.