

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 622

FINAL READING

Introduced by Williams, 36.

Read first time January 23, 2019

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to the Public Funds Deposit Security Act; to
2 amend sections 77-2386, 77-2387, 77-2388, 77-2392, 77-2394, 77-2395,
3 77-2396, 77-2397, 77-2398, 77-2399, 77-23,100, 77-23,101, and
4 77-23,102, Reissue Revised Statutes of Nebraska; to define terms; to
5 change provisions relating to securing deposits, setting deposit
6 guaranty bond and securities values, designating duties, and default
7 procedures; to provide for pooled collateral; to provide powers and
8 duties for the Director of Banking and Finance; to provide immunity
9 for the director and administrator as prescribed; to harmonize
10 provisions; to provide an operative date; and to repeal the original
11 sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2386, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-2386 Sections 77-2386 to 77-23,106 and sections 14 and 15 of this
4 act shall be known and may be cited as the Public Funds Deposit Security
5 Act.

6 Sec. 2. Section 77-2387, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-2387 For purposes of the Public Funds Deposit Security Act,
9 unless the context otherwise requires:

10 (1) Affiliate means any entity that controls, is controlled by, or
11 is under common control with another entity;

12 (2) Bank means any state-chartered or federally chartered bank which
13 has a main chartered office in this state, any branch thereof in this
14 state, or any branch in this state of a state-chartered or federally
15 chartered bank which maintained a main chartered office in this state
16 prior to becoming a branch of such state-chartered or federally chartered
17 bank;

18 (3) Capital stock financial institution means a capital stock state
19 building and loan association, a capital stock federal savings and loan
20 association, a capital stock federal savings bank, and a capital stock
21 state savings bank, which has a main chartered office in this state, any
22 branch thereof in this state, or any branch in this state of a capital
23 stock financial institution which maintained a main chartered office in
24 this state prior to becoming a branch of such capital stock financial
25 institution;

26 (4) Control means to own directly or indirectly or to control in any
27 manner twenty-five percent of the voting shares of any bank, capital
28 stock financial institution, or holding company or to control in any
29 manner the election of the majority of directors of any bank, capital
30 stock financial institution, or holding company;

31 (5) Custodial official means an officer or an employee of the State

1 of Nebraska or any political subdivision who, by law, is made custodian
2 of or has control over public money or public funds subject to the act or
3 the security for the deposit of public money or public funds subject to
4 the act;

5 (6) Deposit guaranty bond means a bond underwritten by an insurance
6 company authorized to do business in this state which provides coverage
7 for deposits of a governing authority which are in excess of the amounts
8 insured or guaranteed by the Federal Deposit Insurance Corporation;

9 (7) Director means the Director of Banking and Finance;

10 (8) ~~(7)~~ Event of default means the issuance of an order by a
11 supervisory authority or a receiver which restrains a bank, capital stock
12 financial institution, or qualifying mutual financial institution from
13 paying its deposit liabilities;

14 (9) ~~(8)~~ Governing authority means the official, or the governing
15 board, council, or other body or group of officials, authorized to
16 designate a bank, capital stock financial institution, or qualifying
17 mutual financial institution as a depository of public money or public
18 funds subject to the act;

19 (10) ~~(9)~~ Governmental unit means the State of Nebraska or any
20 political subdivision thereof;

21 (11) ~~(10)~~ Political subdivision means any county, city, village,
22 township, district, authority, or other public corporation or entity,
23 whether organized and existing under direct provisions of the
24 Constitution of Nebraska or laws of the State of Nebraska or by virtue of
25 a charter, corporate articles, or other legal instruments executed under
26 authority of the constitution or laws, including any entity created
27 pursuant to the Interlocal Cooperation Act or the Joint Public Agency
28 Act;

29 (12) ~~(11)~~ Qualifying mutual financial institution shall have the
30 same meaning as in section 77-2365.01;

31 (13) ~~(12)~~ Repurchase agreement means an agreement to purchase

1 securities by the governing authority by which the counterparty bank,
2 capital stock financial institution, or qualifying mutual financial
3 institution will repurchase the securities on or before a specified date
4 and for a specified amount and the counterparty bank, capital stock
5 financial institution, or qualifying mutual financial institution will
6 deliver the underlying securities to the governing authority by book
7 entry, physical delivery, or third-party custodial agreement. The
8 transfer of underlying securities to the counterparty bank's, capital
9 stock financial institution's, or qualifying mutual financial
10 institution's customer book entry account may be used for book entry
11 delivery if the governing authority so chooses; and

12 (14) ~~(13)~~ Securities means:

13 (a) Bonds or obligations fully and unconditionally guaranteed both
14 as to principal and interest by the United States Government;

15 (b) United States Government notes, certificates of indebtedness, or
16 treasury bills of any issue;

17 (c) United States Government bonds;

18 (d) United States Government guaranteed bonds or notes;

19 (e) Bonds or notes of United States Government agencies;

20 (f) Bonds of any state or political subdivision which are fully
21 defeased as to principal and interest by any combination of bonds or
22 notes authorized in subdivision (c), (d), or (e) of this subdivision;

23 (g) Bonds or obligations, including mortgage-backed securities and
24 collateralized mortgage obligations, issued by or backed by collateral
25 one hundred percent guaranteed by the Federal Home Loan Mortgage
26 Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or
27 the Federal National Mortgage Association;

28 (h) Repurchase agreements the subject securities of which are any of
29 the securities described in subdivisions (a) through (g) of this
30 subdivision;

31 (i) Securities issued under the authority of the Federal Farm Loan

1 Act;

2 (j) Loan participations which carry the guarantee of the Commodity
3 Credit Corporation, an instrumentality of the United States Department of
4 Agriculture;

5 (k) Guaranty agreements of the Small Business Administration of the
6 United States Government;

7 (l) Bonds or obligations of any county, city, village, metropolitan
8 utilities district, public power and irrigation district, sewer district,
9 fire protection district, rural water district, or school district in
10 this state which have been issued as required by law;

11 (m) Bonds of the State of Nebraska or of any other state which are
12 purchased by the Board of Educational Lands and Funds of this state for
13 investment in the permanent school fund or which are purchased by the
14 state investment officer of this state for investment in the permanent
15 school fund;

16 (n) Bonds or obligations of another state, or a political
17 subdivision of another state, which are rated within the two highest
18 classifications by at least one of the standard rating services;

19 (o) Warrants of the State of Nebraska;

20 (p) Warrants of any county, city, village, local hospital district,
21 or school district in this state;

22 (q) Irrevocable, nontransferable, unconditional standby letters of
23 credit issued by a Federal Home Loan Bank; and

24 (r) Certificates of deposit fully insured or guaranteed by the
25 Federal Deposit Insurance Corporation that are issued to a bank, capital
26 stock financial institution, or qualifying mutual financial institution
27 furnishing securities pursuant to the Public Funds Deposit Security Act.

28 Sec. 3. Section 77-2388, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 77-2388 Any bank, capital stock financial institution, or qualifying
31 mutual financial institution subject to a requirement by law to secure

1 the deposit of public money or public funds in excess of the amount
2 insured or guaranteed by the Federal Deposit Insurance Corporation may
3 give security by furnishing securities or providing a deposit guaranty
4 bond, or any combination thereof, pursuant to the Public Funds Deposit
5 Security Act in satisfaction of the requirement.

6 Sec. 4. Section 77-2392, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-2392 A bank, capital stock financial institution, or qualifying
9 mutual financial institution which has furnished securities pursuant to
10 the Public Funds Deposit Security Act shall have the right at any time
11 and without prior approval to substitute or exchange other securities of
12 equal value in lieu of securities furnished except that such securities
13 substituted or exchanged shall be those provided for under the act and
14 such substitution or exchange shall not reduce the market value of the
15 securities to an amount that is less than one hundred two percent of the
16 total amount of public money or public funds less the portion of such
17 public money or public funds insured or guaranteed by the Federal Deposit
18 Insurance Corporation. Following any substitution or exchange of
19 securities pursuant to this section by a bank, capital stock financial
20 institution, or qualifying mutual financial institution utilizing the
21 dedicated method as provided in subdivision (2)(a) of section 77-2398,
22 the custodial official shall report such substitution or exchange to the
23 governing authority.

24 Sec. 5. Section 77-2394, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 77-2394 A bank, capital stock financial institution, or qualifying
27 mutual financial institution provides a deposit guaranty bond pursuant to
28 the Public Funds Deposit Security Act if it issues a deposit guaranty
29 bond which runs to the director or custodial official, as applicable, and
30 which is conditioned that the bank, capital stock financial institution,
31 or qualifying mutual financial institution shall, at the end of each and

1 every month, render to the custodial official a statement, in duplicate,
2 showing the daily balances and the amounts of public money or public
3 funds of the governing authority held by it during the month and how
4 credited. The public money or public funds shall be paid promptly on the
5 order of the custodial official depositing the public money or public
6 funds.

7 Sec. 6. Section 77-2395, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 77-2395 (1) If a bank, capital stock financial institution, or
10 qualifying mutual financial institution designated as a depository
11 provides a deposit guaranty bond or furnishes securities or any
12 combination thereof, pursuant to section 77-2389, the custodial official
13 shall not have on deposit in such depository any public money or public
14 funds in excess of the amount insured or guaranteed by the Federal
15 Deposit Insurance Corporation, unless and until the depository has
16 provided a deposit guaranty bond or furnished securities, or any
17 combination thereof, to the custodial official ~~securities, and the total~~
18 ~~market~~ value of such deposit guaranty bond and the market value of such
19 securities ~~which~~ are in an amount not less than one hundred two percent
20 of the amount on deposit which is in excess of the amount so insured or
21 guaranteed.

22 (2) If a bank, capital stock financial institution, or qualifying
23 mutual financial institution designated as a depository provides a
24 deposit guaranty bond or furnishes securities or any combination thereof,
25 pursuant to subsection (1) of section 77-2398, the custodial official
26 shall not have on deposit in such depository any public money or public
27 funds in excess of the amount insured or guaranteed by the Federal
28 Deposit Insurance Corporation, unless and until the depository has
29 provided a deposit guaranty bond or furnished securities, or any
30 combination thereof, pursuant to the Public Funds Deposit Security Act to
31 ~~the custodial official securities, and the total~~ market value of such

1 deposit guaranty bond and the market value of such securities which are
2 in an amount not less than one hundred two five percent of the amount on
3 deposit which is in excess of the amount so insured or guaranteed.

4 ~~(3) If a bank, capital stock financial institution, or qualifying~~
5 ~~mutual financial institution designated as a depository provides a~~
6 ~~deposit guaranty bond pursuant to the Public Funds Deposit Security Act,~~
7 ~~the custodial official shall not have on deposit in such depository any~~
8 ~~public money or public funds in excess of the amount insured or~~
9 ~~guaranteed by the Federal Deposit Insurance Corporation, unless and until~~
10 ~~the depository has provided to the custodial official a deposit guaranty~~
11 ~~bond in an amount not less than the amount on deposit which is in excess~~
12 ~~of the amount so insured or guaranteed.~~

13 Sec. 7. Section 77-2396, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 77-2396 No custodial official shall be liable on his or her official
16 bond as such custodial official for public money or public funds on
17 deposit in a bank, capital stock financial institution, or qualifying
18 mutual financial institution designated as a depository if the depository
19 has furnished securities or provided a deposit guaranty bond, or any
20 combination thereof, pursuant to the Public Funds Deposit Security Act.

21 Sec. 8. Section 77-2397, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-2397 All depositories of public money or public funds belonging
24 to the State of Nebraska or the political subdivisions in this state
25 shall have full authority to deposit, pledge, or grant a security
26 interest in their assets or to provide a deposit guaranty bond, or any
27 combination thereof, for the security and payment for all such deposits
28 and accretions. The State of Nebraska and any political subdivision in
29 this state are given the right and authority to accept such deposit,
30 pledge, or grant of a security interest in assets or the provision of a
31 deposit guaranty bond, or any combination thereof.

1 Sec. 9. Section 77-2398, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-2398 (1) As an alternative to the requirements to secure the
4 deposit of public money or public funds in excess of the amount insured
5 or guaranteed by the Federal Deposit Insurance Corporation pursuant to
6 sections 77-2389 and 77-2394, a bank, capital stock financial
7 institution, or qualifying mutual financial institution designated as a
8 public depository may secure the deposits of one or more governmental
9 units by providing a deposit guaranty bond or by depositing, pledging, or
10 granting a security interest in a single pool of securities or by a
11 combination thereof to secure the repayment of all public money or public
12 funds deposited in the bank, capital stock financial institution, or
13 qualifying mutual financial institution by such governmental units and
14 not otherwise secured pursuant to law, if at all times the total value of
15 the deposit guaranty bond and is at least equal to the amount on deposit
16 which is in excess of the amount so insured or guaranteed or the
17 aggregate market value of the pool of securities so deposited, pledged,
18 or in which a security interest is granted is at least equal to one
19 hundred two ~~five~~ percent of the amount on deposit which is in excess of
20 the amount so insured or guaranteed. Each such bank, capital stock
21 financial institution, or qualifying mutual financial institution shall
22 carry on its accounting records at all times a general ledger or other
23 appropriate account of the total amount of all public money or public
24 funds to be secured by a deposit guaranty bond or by the pool of
25 securities, or any combination thereof, as determined at the opening of
26 business each day, and the total value of the deposit guaranty bond or
27 the aggregate market value of the pool of securities deposited, pledged,
28 or in which a security interest is granted to secure such public money or
29 public funds. For purposes of this section, a pool of securities shall
30 include shares of investment companies registered under the federal
31 Investment Company Act of 1940 when the investment companies' assets are

1 limited to obligations that are eligible for investment by the bank,
2 capital stock financial institution, or qualifying mutual financial
3 institution and limited by their prospectuses to owning securities
4 enumerated in section 77-2387.

5 (2) A bank, capital stock financial institution, or qualifying
6 mutual financial institution may secure the deposit of public money or
7 public funds using the dedicated method, the single bank pooled method,
8 or both methods as set forth in subsection (1) of this section.

9 (a) Under the dedicated method, a bank, capital stock financial
10 institution, or qualifying mutual financial institution may secure the
11 deposit of public money or public funds by each governmental unit
12 separately by furnishing securities or providing a deposit guaranty bond,
13 or any combination thereof, pursuant to the Public Funds Deposit Security
14 Act.

15 (b)(i) Under the single bank pooled method, a bank, capital stock
16 financial institution, or qualifying mutual financial institution may
17 secure the deposit of public money or public funds of one or more
18 governmental units by providing a deposit guaranty bond or through a pool
19 of eligible securities established by such bank, capital stock financial
20 institution, or qualifying mutual financial institution with a qualified
21 trustee, or any combination thereof, to be held subject to the order of
22 the director or the administrator for the benefit of the governmental
23 units having public money or public funds with such bank, capital stock
24 financial institution, or qualifying mutual financial institution as set
25 forth in subsection (1) of this section.

26 (ii) The director shall designate a bank, savings association, trust
27 company, or other qualified firm, corporation, or association which is
28 authorized to transact business in this state to serve as the
29 administrator with respect to a single bank pooled method. Fees and
30 expenses of such administrator shall be paid by the banks, capital stock
31 financial institutions, or qualifying mutual financial institutions

1 utilizing the single bank pooled method.

2 (iii) If a bank, capital stock financial institution, or qualifying
3 mutual financial institution elects to secure the deposit of public money
4 or public funds through the use of the single bank pooled method, such
5 bank, capital stock financial institution, or qualifying mutual financial
6 institution shall notify the administrator in writing that it has elected
7 to utilize the single bank pooled method and the proposed effective date
8 thereof.

9 (iv) The single bank pooled method shall not be utilized by any
10 bank, capital stock financial institution, or qualifying mutual financial
11 institution unless an administrator has been designated by the director
12 pursuant to subdivision (2)(b)(ii) of this section and is acting as the
13 administrator.

14 (3) ~~(2)~~ Only a deposit guaranty bond and the securities listed in
15 subdivision ~~(14)~~ ~~(13)~~ of section 77-2387 may be provided and accepted as
16 security for the deposit of public money or public funds and shall be
17 eligible as collateral. The qualified trustee shall not accept any
18 securities no security which are is not listed in subdivision ~~(14)~~ ~~(13)~~
19 of section 77-2387.

20 Sec. 10. Section 77-2399, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 77-2399 Each governmental unit depositing public money or public
23 funds in a bank, capital stock financial institution, or qualifying
24 mutual financial institution shall have an undivided beneficial interest
25 under the deposit guaranty bond provided and ~~or~~ an undivided security
26 interest in the pool of securities deposited, pledged, or in which a
27 security interest is granted by such a bank, capital stock financial
28 institution, or qualifying mutual financial institution pursuant to
29 subsection (1) of section 77-2398 in the proportion that the total amount
30 of the governmental unit's public money or public funds held deposited in
31 such bank, capital stock financial institution, or qualifying mutual

1 financial institution secured by the deposit guaranty bond or by the pool
2 of securities, or any combination thereof, bears to the total amount of
3 public money or public funds so secured. Articles 8 and 9, Uniform
4 Commercial Code, shall not apply to any security interest arising under
5 this section.

6 Sec. 11. Section 77-23,100, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-23,100 (1) Any bank, capital stock financial institution, or
9 qualifying mutual financial institution in which public money or public
10 funds ~~has~~ have been deposited which satisfies its requirement to secure
11 the deposit of public money or public funds in excess of the amount
12 insured or guaranteed by the Federal Deposit Insurance Corporation, in
13 whole or in part, by the deposit, pledge, or granting of a security
14 interest in a single pool of securities shall designate a qualified
15 trustee and place with the trustee for holding the securities so
16 deposited, pledged, or in which a security interest has been granted
17 pursuant to subsection (1) of section 77-2398, subject to the order of
18 the director or the administrator. The bank, capital stock financial
19 institution, or qualifying mutual financial institution shall give
20 written notice of the designation of the qualified trustee to any
21 custodial official depositing public money or public funds for which such
22 securities are deposited, pledged, or in which a security interest has
23 been granted, and if an affiliate of the bank, capital stock financial
24 institution, or qualifying mutual financial institution is to serve as
25 the qualified trustee, the notice shall disclose the affiliate
26 relationship and shall be given prior to designation of the qualified
27 trustee. The custodial official shall accept the written receipt of the
28 trustee describing the pool of securities so deposited, pledged, or in
29 which a security interest has been granted by the bank, capital stock
30 financial institution, or qualifying mutual financial institution, a copy
31 of which shall also be delivered to the bank, capital stock financial

1 institution, or qualifying mutual financial institution.

2 (2) Any bank, capital stock financial institution, or qualifying
3 mutual financial institution which satisfies its requirement to secure
4 the deposit of public money or public funds in excess of the amount
5 insured or guaranteed by the Federal Deposit Insurance Corporation under
6 the Public Funds Deposit Security Act, in whole or in part, by providing
7 a deposit guaranty bond pursuant to the provisions of subsection (1) of
8 section 77-2398, shall designate the director a ~~qualified trustee~~ and
9 cause to be issued a deposit guaranty bond which runs to the director
10 acting for the benefit of the governmental units having public money or
11 public funds on deposit with such bank, capital stock financial
12 institution, or qualifying mutual financial institution ~~qualified trustee~~
13 and which is conditioned that the bank, capital stock financial
14 institution, or qualifying mutual financial institution shall render to
15 the administrator ~~qualified trustee~~ the statement required under
16 subsection (3) of this section.

17 (3) Each bank, capital stock financial institution, or qualifying
18 mutual financial institution which satisfies its requirement to secure
19 the deposit of public money or public funds in excess of the amount
20 insured or guaranteed by the Federal Deposit Insurance Corporation by
21 providing a deposit guaranty bond or by depositing, pledging, or granting
22 a security interest in a single pool of securities, or any combination
23 thereof, shall, on or before the tenth day of each month, render to the
24 administrator ~~qualified trustee~~ a statement showing as of the last
25 business day of the previous month (a) the amount of public money or
26 public funds deposited in such bank, capital stock financial institution,
27 or qualifying mutual financial institution that is not insured or
28 guaranteed by the Federal Deposit Insurance Corporation (i) by each
29 custodial official separately and (ii) by all custodial officials in the
30 aggregate and (b) the total value of the deposit guaranty bond and ~~or~~ the
31 aggregate market value of the pool of securities deposited, pledged, or

1 in which a security interest has been granted pursuant to subsection (1)
2 of section 77-2398. The director ~~Any qualified trustee~~ shall be
3 authorized, acting for the benefit of the governmental units having
4 public money or public funds on deposit with such bank, capital stock
5 financial institution, or qualifying mutual financial institution
6 ~~custodial officials~~, to take any and all actions necessary to take title
7 to or to effect a first perfected security interest in the securities
8 deposited, pledged, or in which a security interest is granted.

9 (4) Within twenty ~~ten~~ days after receiving the statement required
10 under subsection (3) of this section from a bank, capital stock financial
11 institution, or qualifying mutual financial institution, the
12 administrator ~~qualified trustee~~ shall provide a report to each custodial
13 official listed in such statement reflecting (a) the amount of public
14 money or public funds deposited in such bank, capital stock financial
15 institution, or qualifying mutual financial institution by each custodial
16 official as of the last business day of the previous month that is not
17 insured or guaranteed by the Federal Deposit Insurance Corporation and
18 that is secured pursuant to subsection (1) of section 77-2398 and (b) the
19 total value of the deposit guaranty bond and ~~or~~ the aggregate market
20 value of the pool of securities deposited, pledged, or in which a
21 security interest is granted pursuant to subsection (1) of section
22 77-2398 as of the last business day of the previous month. The report
23 shall clearly notify the custodial official if the value of the
24 securities deposited does not meet the statutory requirement.

25 Sec. 12. Section 77-23,101, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 77-23,101 Any Federal Reserve Bank, branch of a Federal Reserve
28 Bank, a federal home loan bank, or another responsible bank which is
29 authorized to exercise trust powers, capital stock financial institution
30 which is authorized to exercise trust powers, qualifying mutual financial
31 institution which is authorized to exercise trust powers, or trust

1 company, other than the pledgor or the bank, capital stock financial
2 institution, or qualifying mutual financial institution providing the
3 deposit guaranty bond or granting the security interest, is qualified to
4 act as a qualified trustee for the receipt of a deposit guaranty bond or
5 the holding of securities under section 77-23,100. The bank, capital
6 stock financial institution, or qualifying mutual financial institution
7 in which public money or public funds are deposited may at any time
8 substitute, exchange, or release securities deposited with a qualified
9 trustee if such substitution, exchange, or release does not reduce the
10 aggregate market value of the pool of securities to an amount that is
11 less than one hundred two ~~five~~ percent of the total amount of public
12 money or public funds less the portion of such public money or public
13 funds insured or guaranteed by the Federal Deposit Insurance Corporation.
14 The bank, capital stock financial institution, or qualifying mutual
15 financial institution in which public money or public funds are deposited
16 may at any time reduce the amount of the deposit guaranty bond if the
17 reduction does not reduce the total combined value of the deposit
18 guaranty bond and the aggregate market value of the pool of securities to
19 an amount less than one hundred two percent of the total amount of public
20 money or public funds less the portion of such public money or public
21 funds insured or guaranteed by the Federal Deposit Insurance Corporation.

22 Sec. 13. Section 77-23,102, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 77-23,102 (1) When the director determines that If a bank, capital
25 stock financial institution, or qualifying mutual financial institution
26 has experienced ~~experiences~~ an event of default the director ~~qualified~~
27 ~~trustee~~ shall proceed in the following manner: (a) The director ~~qualified~~
28 ~~trustee~~ shall ascertain the aggregate amounts of public money or public
29 funds secured pursuant to subsection (1) of section 77-2398 and deposited
30 in the bank, capital stock financial institution, or qualifying mutual
31 financial institution which has defaulted, as disclosed by the records of

1 such bank, capital stock financial institution, or qualifying mutual
2 financial institution. The director ~~qualified trustee~~ shall determine for
3 each custodial official for whom public money or public funds are
4 deposited in the defaulting bank, capital stock financial institution, or
5 qualifying mutual financial institution the accounts and amount of
6 federal deposit insurance or guarantee that is available for each
7 account. The director ~~It~~ shall then determine for each such custodial
8 official the amount of public money or public funds not insured or
9 guaranteed by the Federal Deposit Insurance Corporation and the amount of
10 the deposit guaranty bond or pool of securities pledged, deposited, or in
11 which a security interest has been granted, or any combination thereof,
12 to secure such public money or public funds. Upon completion of this
13 analysis, the director ~~qualified trustee~~ shall provide each such
14 custodial official with a statement that reports the amount of public
15 money or public funds deposited by the custodial official in the
16 defaulting bank, capital stock financial institution, or qualifying
17 mutual financial institution, the amount of public money or public funds
18 that may be insured or guaranteed by the Federal Deposit Insurance
19 Corporation, and the amount of public money or public funds secured by a
20 deposit guaranty bond or secured by a pool of securities, or any
21 combination thereof, pursuant to subsection (1) of section 77-2398. Each
22 such custodial official shall verify this information from his or her
23 records within ten business days after receiving the report and
24 information from the director ~~qualified trustee~~; and (b) upon receipt of
25 a verified report from such custodial official and if the defaulting
26 bank, capital stock financial institution, or qualifying mutual financial
27 institution is to be liquidated or if for any other reason the director
28 ~~qualified trustee~~ determines that public money or public funds are not
29 likely to be promptly paid upon demand, the director ~~qualified trustee~~
30 shall proceed to enforce the deposit guaranty bond and ~~or~~ liquidate the
31 pool of securities held to secure the deposit of public money or public

1 funds and shall repay each custodial official for the public money or
2 public funds not insured or guaranteed by the Federal Deposit Insurance
3 Corporation deposited in the bank, capital stock financial institution,
4 or qualifying mutual financial institution by the custodial official. In
5 the event that the amount of the deposit guaranty bond or the proceeds of
6 the securities held by the director ~~qualified trustee~~ after liquidation
7 is insufficient to cover all public money or public funds not insured or
8 guaranteed by the Federal Deposit Insurance Corporation for all custodial
9 officials for whom the director ~~qualified trustee~~ serves, the director
10 ~~qualified trustee~~ shall pay out to each custodial official available
11 amounts pro rata in accordance with the respective public money or public
12 funds not insured or guaranteed by the Federal Deposit Insurance
13 Corporation for each such custodial official.

14 (2) In the event that a federal deposit insurance agency is
15 appointed and acts as a liquidator or receiver of any bank, capital stock
16 financial institution, or qualifying mutual financial institution under
17 state or federal law, those duties under this section that are specified
18 to be performed by the director ~~qualified trustee~~ in the event of default
19 may be delegated to and performed by such federal deposit insurance
20 agency.

21 Sec. 14. The director and the administrator under the Public Funds
22 Deposit Security Act shall, except for actions or inactions that
23 constitute gross negligence or intentional wrongful acts, be immune from
24 liability for any act required of or authorized for the director and the
25 administrator under the act.

26 Sec. 15. The director may adopt and promulgate rules and
27 regulations, establish policies and procedures, prescribe forms, or issue
28 orders as may be necessary to accomplish the purposes of the Public Funds
29 Deposit Security Act.

30 Sec. 16. This act becomes operative on July 1, 2020.

31 Sec. 17. Original sections 77-2386, 77-2387, 77-2388, 77-2392,

1 77-2394, 77-2395, 77-2396, 77-2397, 77-2398, 77-2399, 77-23,100,
2 77-23,101, and 77-23,102 Reissue Revised Statutes of Nebraska, are
3 repealed.