

1 **As Amended by House Committee**

2 *Session of 2001*

3
4 **HOUSE BILL No. 2086**

5
6 By Committee on Local Government

7
8 1-19

9
10 AN ACT concerning municipalities; relating to depositories for public
11 funds; amending K.S.A. 2000 Supp. 9-1401, 9-1408, 12-1675 and 12-
12 1675a and repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2000 Supp. 9-1401 is hereby amended to read as
16 follows: 9-1401. (a) The governing body of any municipal corporation or
17 quasi-municipal corporation shall designate by official action recorded
18 upon its minutes the banks, savings and loan associations and savings
19 banks which shall serve as depositories of its funds and the officer and
20 official having the custody of such funds shall not deposit such funds other
21 than at such designated banks, savings and loan associations and savings
22 banks. ~~The banks, savings and loan associations and savings banks which~~
23 ~~have main or branch offices in the county or counties in which all or part~~
24 ~~of such municipal corporation or quasi-municipal corporation is located~~
25 ~~shall be designated as such official depositories if the municipal or quasi-~~
26 ~~municipal corporation can obtain satisfactory security therefor. For pur-~~
27 ~~poses of this subsection, banks, savings and loan associations or savings~~
28 ~~banks organized under the laws of the United States or another state~~
29 ~~which do not have a main office in this state, may be designated as de-~~
30 ~~positories of such municipal corporation's or quasi-municipal corpora-~~
31 ~~tion's funds in accordance with this subsection, if such banks, savings and~~
32 ~~loan associations and savings banks have branch offices in the county or~~
33 ~~counties in which all or part of such municipal corporation or quasi mu-~~
34 ~~nicipal corporation is located, except that such banks, savings and loan~~
35 ~~associations or savings banks shall not be eligible to receive deposits ex-~~
36 ~~cept in accordance with subsection (c).~~

37 (b) Every officer or person depositing public funds shall deposit all
38 such public funds coming into such officer or person's possession in their
39 name and official title as such officer. If the governing body of the mu-
40 nicipal corporation or quasi-municipal corporation fails to designate an
41 official depository or depositories, the officer thereof having custody of
42 its funds shall deposit such funds with one or more banks, savings and
43 loan associations or savings banks ~~which have main or branch offices in~~

1 ~~the county or counties in which all or part of such municipal corporation~~
2 ~~or quasi municipal corporation is located if satisfactory security can be~~
3 ~~obtained therefor and if not then elsewhere, but upon so doing. Upon~~
4 ~~depositing such funds, the officer shall serve notice in writing on the~~
5 ~~governing body showing the names and locations of such banks, savings~~
6 ~~and loan associations and savings banks where such funds are deposited,~~
7 ~~and upon so doing. Upon deposit of funds as provided by this section, the~~
8 ~~officer having custody of such funds shall not be liable for the loss of any~~
9 ~~portion thereof except for official misconduct or for the misappropriation~~
10 ~~of such funds by such officer.~~

11 ~~(c) If eligible banks, savings and loan associations or savings banks~~
12 ~~under subsections (a) or (b) cannot or will not provide an acceptable bid,~~
13 ~~which shall include services, for the depositing of public funds under this~~
14 ~~section, then banks, savings and loan associations or savings banks organ-~~
15 ~~ized under the laws of the United States or another state which do not~~
16 ~~have a main office in this state, may receive deposits of such municipal~~
17 ~~corporation or quasi municipal corporation, if such banks, savings and~~
18 ~~loan associations or savings banks have been designated as official depos-~~
19 ~~itories under subsection (a), have branch offices in the county or counties~~
20 ~~in which all or part of such municipal corporation or quasi municipal~~
21 ~~corporation is located and the municipal corporation or quasi municipal~~
22 ~~corporation can obtain satisfactory security therefor.~~

23 ~~Sec. 2.—K.S.A. 2000 Supp. 9 1408 is hereby amended to read as fol-~~
24 ~~lows: 9 1408. As used in article 14 of chapter 9 of the Kansas Statutes~~
25 ~~Annotated:~~

26 ~~—(a) “Bank” means any bank incorporated under the laws of this state,~~
27 ~~or organized under the laws of the United States and which has a main~~
28 ~~office in this state;~~

29 ~~—(b) “savings and loan association” means any savings and loan asso-~~
30 ~~ciation incorporated under the laws of this state, or organized under the~~
31 ~~laws of the United States and which has a main office in this state;~~

32 ~~—(c) “savings bank” means any savings bank organized under the laws~~
33 ~~of the United States and which has a main office in this state;~~

34 ~~—(d) “centralized securities depository” means a clearing agency reg-~~
35 ~~istered with the securities and exchange commission which provides safe-~~
36 ~~keeping and book entry settlement services to its participants;~~

37 ~~—(e) “municipal corporation” or “quasi municipal corporation” in-~~
38 ~~cludes each investing governmental unit under K.S.A. 12 1675, and~~
39 ~~amendments thereto; and~~

40 ~~(f) “main office” means the place of business specified in the articles~~
41 ~~of association, certificate of authority or similar document, where the~~
42 ~~business of the institution is carried on and which is not a branch;~~

43 ~~—(g) “branch” means any office, agency or other place of business~~

1 within this state, other than the main office, at which deposits are re-
2 ceived, checks paid or money lent with approval of the appropriate reg-
3 ulatory authorities. Branch does not include an automated teller machine,
4 remote service unit or similar device;

5 —(h) ~~(f)~~ “securities,” “security entitlements,” “financial assets,” “secu-
6 rities account,” “security agreement,” “security interest,” “perfection”
7 and “control” shall have the meanings given such terms under the Kansas
8 uniform commercial code.

9 **Sec. 2. K.S.A. 2000 Supp. 9-1408 is hereby amended to read**
10 **as follows: 9-1408. As used in article 14 of chapter 9 of the Kansas**
11 **Statutes Annotated:**

12 (a) **“Bank” means any a bank incorporated under the laws of**
13 **this state, or organized under the laws of the United States or an-**
14 **other state and which has a main or branch office in this state and**
15 **which maintains a community reinvestment act rating of satisfactory or**
16 **above;**

17 (b) **“savings and loan association” means any a savings and loan**
18 **association incorporated under the laws of this state, or organized**
19 **under the laws of the United States or another state, insured by the**
20 **federal deposit insurance corporation or its successor and which has a**
21 **main or branch office in this state and which maintains a community**
22 **reinvestment act rating of satisfactory or above;**

23 (c) **“savings bank” means any a savings bank organized under**
24 **the laws of the United States or another state, insured by the federal**
25 **deposit insurance corporation or its successor and which has a main or**
26 **branch office in this state and which maintains a community reinvest-**
27 **ment act rating of satisfactory or above;**

28 (d) **“centralized securities depository” means a clearing**
29 **agency registered with the securities and exchange commission**
30 **which provides safekeeping and book-entry settlement services to**
31 **its participants;**

32 (e) **“municipal corporation” or “quasi-municipal corporation”**
33 **includes each investing governmental unit under K.S.A. 12-1675,**
34 **and amendments thereto;**

35 (f) **“main office” means the place of business specified in the**
36 **articles of association, certificate of authority or similar document,**
37 **where the business of the institution is carried on and which is not**
38 **a branch;**

39 (g) **“branch” means any office, agency or other place of busi-**
40 **ness within this state, other than the main office, at which deposits**
41 **are received, checks paid or money lent with approval of the ap-**
42 **propriate regulatory authorities. Branch does not include an au-**
43 **tomated teller machine, remote service unit or similar device;**

1 **(h) “securities,” “security entitlements,” “financial assets,”**
2 **“securities account,” “security agreement,” “security interest,”**
3 **“perfection” and “control” shall have the meanings given such**
4 **terms under the Kansas uniform commercial code.**

5 Sec. 3. K.S.A. 2000 Supp. 12-1675 is hereby amended to read as
6 follows: 12-1675. (a) The governing body of any county, city, township,
7 school district, area vocational-technical school, community college, fire-
8 men’s relief association, community mental health center, community fa-
9 cility for the mentally retarded or any other governmental entity, unit or
10 subdivision in the state of Kansas having authority to receive, hold and
11 expend public moneys or funds may invest any moneys which are not
12 immediately required for the purposes for which the moneys were col-
13 lected or received, and the investment of which is not subject to or reg-
14 ulated by any other statute.

15 (b) Such moneys shall be invested only:

16 (1) In temporary notes or no-fund warrants issued by such investing
17 governmental unit;

18 (2) in time deposit, open accounts, certificates of deposit or time cer-
19 tificates of deposit with maturities of not more than two years: ~~(A) in~~
20 ~~banks, savings and loan associations and savings banks, which have main~~
21 ~~or branch offices located in such investing governmental unit; or (B) if~~
22 ~~no main or branch office of a bank, savings and loan association or savings~~
23 ~~bank is located in such investing governmental unit, then in banks, savings~~
24 ~~and loan associations and savings banks, which have main or branch of-~~
25 ~~fices in the county or counties in which all or part of such investing gov-~~
26 ~~ernmental unit is located;~~

27 (3) in repurchase agreements with: ~~(A) banks, savings and loan as-~~
28 ~~sociations and savings banks, which have main or branch offices located~~
29 ~~in such investing governmental unit, for direct obligations of, or obliga-~~
30 ~~tions that are insured as to principal and interest by, the United States~~
31 ~~government or any agency thereof; or (B) (i) if no main or branch office~~
32 ~~of a bank, savings and loan association or savings bank, is located in such~~
33 ~~investing governmental unit; or (ii) if no such bank, savings and loan~~
34 ~~association or savings bank having a main or branch office located in such~~
35 ~~investing governmental unit is willing to enter into such an agreement~~
36 ~~with the investing governmental unit at an interest rate equal to or greater~~
37 ~~than the investment rate, as defined in subsection (g) of K.S.A. 2000 Supp.~~
38 ~~12-1675a, then such repurchase agreements may be entered into with~~
39 ~~banks, savings and loan associations or savings banks which have main or~~
40 ~~branch offices in the county or counties in which all or part of such in-~~
41 ~~vesting governmental unit is located; or (C) if no bank, savings and loan~~
42 ~~association or savings bank, having a main or branch office in such county~~
43 ~~or counties is willing to enter into such an agreement with the investing~~

1 governmental unit at an interest rate equal to or greater than the invest-
2 ment rate, as defined in subsection (g) of K.S.A. 2000 Supp. 12-1675a,
3 then such repurchase agreements may be entered into with banks, savings
4 and loan associations or savings banks;

5 (4) in United States treasury bills or notes with maturities as the gov-
6 erning body shall determine, but not exceeding two years. Such invest-
7 ment transactions shall only be conducted with banks, savings and loan
8 associations and savings banks; the federal reserve bank of Kansas City,
9 Missouri; or with primary government securities dealers which report to
10 the market report division of the federal reserve bank of New York, or
11 any broker-dealer engaged in the business of selling government securi-
12 ties which is registered in compliance with the requirements of section
13 15 or 15C of the securities exchange act of 1934 and registered pursuant
14 to K.S.A. 17-1254, and amendments thereto;

15 (5) in the municipal investment pool fund established in K.S.A. 2000
16 Supp. 12-1677a, and amendments thereto;

17 (6) in the investments authorized and in accordance with the condi-
18 tions prescribed in K.S.A. 2000 Supp. 12-1677b, and amendments
19 thereto; or

20 (7) in multiple municipal client investment pools managed by the
21 trust departments of banks which have main or branch offices located in
22 the county or counties where such investing governmental unit is located
23 or with trust companies incorporated under the laws of this state which
24 have contracted to provide trust services under the provisions of K.S.A.
25 9-2107, and amendments thereto, with banks which have main or branch
26 offices located in the county or counties in which such investing govern-
27 mental unit is located. Public moneys invested under this paragraph shall
28 be secured in the same manner as provided for under K.S.A. 9-1402, and
29 amendments thereto. Pooled investments of public moneys made by trust
30 departments under this paragraph shall be subject to the same terms,
31 conditions and limitations as are applicable to the municipal investment
32 pool established by K.S.A. 2000 Supp. 12-1677a, and amendments
33 thereto.

34 ~~(c) The investments authorized in paragraphs (4), (5), (6) or (7) of~~
35 ~~subsection (b) shall be utilized only if the banks, savings and loan asso-~~
36 ~~ciations and savings banks eligible for investments authorized in para-~~
37 ~~graph (2) of subsection (b), cannot or will not make the investments au-~~
38 ~~thorized in paragraph (2) of subsection (b) available to the investing~~
39 ~~governmental unit at interest rates equal to or greater than the investment~~
40 ~~rate, as defined in subsection (g) of K.S.A. 2000 Supp. 12-1675a.~~

41 ~~(d) In selecting a depository pursuant to paragraph (2) of subsection~~
42 ~~(b), if a bank, savings and loan association or savings bank eligible for an~~
43 ~~investment deposit thereunder has an office located in the investing gov-~~

~~1 ernmental unit and such financial institution will make such deposits avail-
2 able to the investing governmental unit at interest rates equal to or greater
3 than the investment rate, as defined in subsection (g) of K.S.A. 2000 Supp.
4 12-1675a, and such financial institution otherwise qualifies for such de-
5 posit, the investing governmental unit shall select one or more of such
6 eligible financial institutions for deposit of funds pursuant to this section.
7 If no such financial institution qualifies for such deposits, the investing
8 governmental unit shall select for such deposits one or more eligible
9 banks, savings and loan associations or savings banks which have offices
10 in the county or counties in which all or a part of such investing govern-
11 mental unit is located which will make such deposits available to the
12 investing governmental unit at interest rates equal to or greater than the
13 investment rate, as defined in subsection (g) of K.S.A. 2000 Supp. 12-
14 1675a, and which otherwise qualify for such deposits.~~

~~15 (e) (c) (1) All security purchases and repurchase agreements shall
16 occur on a delivery versus payment basis.~~

~~17 (2) All securities, including those acquired by repurchase agreements,
18 shall be perfected in the name of the investing governmental unit and
19 shall be delivered to the purchaser or a third-party custodian which may
20 be the state treasurer.~~

~~21 Sec. 4.—K.S.A. 2000 Supp. 12-1675a is hereby amended to read as
22 follows: 12-1675a. As used in K.S.A. 12-1675, 12-1676 and 12-1677 and
23 K.S.A. 2000 Supp. 12-1677a and 12-1677b, and amendments thereto:~~

~~24 —(a) “Bank” means any bank incorporated under the laws of this state,
25 or organized under the laws of the United States and which has a main
26 office in this state;~~

~~27 —(b) “savings and loan association” means any savings and loan asso-
28 ciation incorporated under the laws of this state, or organized under the
29 laws of the United States and which has a main office in this state;~~

~~30 —(c) “savings bank” means any savings bank organized under the laws
31 of the United States and which has a main office in this state; and~~

~~32 (d) “municipality” includes each investing governmental unit under
33 K.S.A. 12-1675, and amendments thereto;~~

~~34 —(e) “main office” means the place of business specified in the articles
35 of association, certificate of authority or similar document, where the
36 business of the institution is carried on and which is not a branch;~~

~~37 —(f) “branch” means any office, agency or other place of business
38 within this state, other than the main office, at which deposits are re-
39 ceived, checks paid or money lent with approval of the appropriate reg-
40 ulatory authorities. Branch does not include an automated teller machine,
41 remote service unit or similar device; and~~

~~42 —(g) “investment rate” means a rate which is the equivalent yield for
43 United States government securities having a maturity date as published~~

1 in the Wall Street Journal, nearest the maturity date for equivalent ma-
2 turities. The 0-90 day rate shall be computed on the average effective
3 federal funds rate as published by the federal reserve system for the
4 previous week.

5 **Sec. 4. K.S.A. 2000 Supp. 12-1675a is hereby amended to read**
6 **as follows: 12-1675a. As used in K.S.A. 12-1675, 12-1676 and 12-**
7 **1677 and K.S.A. 2000 Supp. 12-1677a and 12-1677b, and amend-**
8 **ments thereto:**

9 (a) **“Bank” means any a bank incorporated under the laws of**
10 **this state, or organized under the laws of the United States or an-**
11 **other state and which has a main or branch office in this state and**
12 **which maintains a community reinvestment act rating of satisfactory or**
13 **above;**

14 (b) **“savings and loan association” means any a savings and loan**
15 **association incorporated under the laws of this state, or organized**
16 **under the laws of the United States or another state, insured by the**
17 **federal deposit insurance corporation or its successor and which has a**
18 **main or branch office in this state and which maintains a community**
19 **reinvestment act rating of satisfactory or above;**

20 (c) **“savings bank” means any a savings bank organized under**
21 **the laws of the United States or another state, insured by the federal**
22 **deposit insurance corporation or its successor, and which has a main or**
23 **branch office in this state and which maintains a community invest-**
24 **ment act rating of satisfactory or above;**

25 (d) **“municipality” includes each investing governmental unit**
26 **under K.S.A. 12-1675, and amendments thereto;**

27 (e) **“main office” means the place of business specified in the**
28 **articles of association, certificate of authority or similar document,**
29 **where the business of the institution is carried on and which is not**
30 **a branch;**

31 (f) **“branch” means any office, agency or other place of busi-**
32 **ness within this state, other than the main office, at which deposits**
33 **are received, checks paid or money lent with approval of the ap-**
34 **propriate regulatory authorities. Branch does not include an au-**
35 **tomated teller machine, remote service unit or similar device; and**

36 (g) **“investment rate” means a rate which is the equivalent**
37 **yield for United States government securities having a maturity**
38 **date as published in the Wall Street Journal, nearest the maturity**
39 **date for equivalent maturities. The 0-90 day rate shall be com-**
40 **puted on the average effective federal funds rate as published by**
41 **the federal reserve system for the previous week.**

42 **New Sec. 5. At the time that investments of public moneys de-**
43 **scribed in K.S.A. 12-1675, and amendments thereto, mature, the**

1 **governing body of the governmental subdivision having the au-**
2 **thority to receive, hold and expend such public moneys shall re-**
3 **offer such moneys for deposit to eligible banks, savings and loan**
4 **associations or savings banks defined in K.S.A. 12-1675a, and**
5 **amendments thereto.**

6 Sec. ~~5~~ **6.** K.S.A. 2000 Supp. 9-1401, 9-1408, 12-1675 and 12-1675a
7 are hereby repealed.

8 Sec. ~~6~~ **7.** This act shall take effect and be in force from and after its
9 publication in the statute book.

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