

Substitute for SENATE BILL No. 264

AN ACT concerning municipalities; relating to depositories for public funds; amending K.S.A. 9-1401, 9-1408 and 12-1675a and K.S.A. 2005 Supp. 12-1675 and repealing the existing sections.

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

Section 1. K.S.A. 9-1401 is hereby amended to read as follows: 9-1401. (a) The governing body of any municipal corporation or quasi-municipal corporation shall designate by official action recorded upon its minutes the banks, savings and loan associations and savings banks which shall serve as depositories of its funds and the officer and official having the custody of such funds shall not deposit such funds other than at such designated banks, savings and loan associations and savings banks. The banks, savings and loan associations and savings banks which have main or branch offices in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located shall be designated as such official depositories if the municipal or quasi-municipal corporation can obtain satisfactory security therefor. ~~For purposes of this subsection, banks, savings and loan associations or savings banks organized under the laws of the United States or another state which do not have a main office in this state, may be designated as depositories of such municipal corporation's or quasi-municipal corporation's funds in accordance with this subsection, if such banks, savings and loan associations and savings banks have branch offices in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located, except that such banks, savings and loan associations or savings banks shall not be eligible to receive deposits except in accordance with subsection (c).~~

(b) Every officer or person depositing public funds shall deposit all such public funds coming into such officer or person's possession in their name and official title as such officer. If the governing body of the municipal corporation or quasi-municipal corporation fails to designate an official depository or depositories, the officer thereof having custody of its funds shall deposit such funds with one or more banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located if satisfactory security can be obtained therefor and if not then elsewhere, but upon so doing shall serve notice in writing on the governing body showing the names and locations of such banks, savings and loan associations and savings banks where such funds are deposited, and upon so doing the officer having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by such officer.

(c) If eligible banks, savings and loan associations or savings banks under subsections (a) or (b) cannot or will not provide an acceptable bid, which shall include services, for the depositing of public funds under this section, then banks, savings and loan associations or savings banks ~~organized under the laws of the United States or another state which do not have a main office in this state,~~ *which have main or branch offices in an adjoining county to the county in which all or part of such municipal or quasi-municipal corporation is located* may receive deposits of such municipal corporation or quasi-municipal corporation, if such banks, savings and loan associations or savings banks have been designated as official depositories under subsection (a), ~~have branch offices in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located~~ and the municipal corporation or quasi-municipal corporation can obtain satisfactory security therefor.

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

(a) "Bank" means any bank incorporated under the laws of this state *or any other state*, or organized under the laws of the United States and which has a main *or branch* office in this state;

(b) "savings and loan association" means any savings and loan association incorporated under the laws of this state *or any other state*, or organized under the laws of the United States and which has a main *or branch* office in this state;

(c) "savings bank" means any savings bank organized under the laws of the United States and which has a main *or branch* office in this state;

(d) "centralized securities depository" means a clearing agency reg-

istered with the securities and exchange commission which provides safe-keeping and book-entry settlement services to its participants;

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

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

(g) “branch” means any office, ~~agency or other place of business~~ within this state, other than the main office, *that is approved as a branch by a federal or state supervisory agency*, at which deposits are received, checks paid or money lent ~~with approval of the appropriate regulatory authorities~~. Branch does not include an automated teller machine, remote service unit or similar device *or a loan production office*;

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

Sec. 3. K.S.A. 2005 Supp. 12-1675 is hereby amended to read as follows: 12-1675. (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen’s relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

(b) Such moneys shall be invested only:

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

(2) in time deposit, open accounts, certificates of deposit or time certificates of deposit with maturities of not more than two years: (A) In banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit; or (B) if no main or branch office of a bank, savings and loan association or savings bank is located in such investing governmental unit, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located;

(3) in repurchase agreements with: (A) Banks, savings and loan associations and savings banks, which have main or branch offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or (B) (i) if no main or branch office of a bank, savings and loan association or savings bank, is located in such investing governmental unit; or (ii) if no such bank, savings and loan association or savings bank having a main or branch office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, *and amendments thereto*, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks *located within this state*;

(4) in United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to

the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 2005 Supp. 17-12a401, and amendments thereto;

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

(6) in the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto; or

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

(c) The investments authorized in paragraphs (4), (5), (6) or (7) of subsection (b) shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in paragraph (2) of subsection (b), cannot or will not make the investments authorized in paragraph (2) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.

(d) In selecting a depository pursuant to paragraph (2) of subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the investing governmental unit and such financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the investing governmental unit shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the investing governmental unit shall select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.

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

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

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

(a) “Bank” means any bank incorporated under the laws of this state or any other state, or organized under the laws of the United States which has a main or branch office in this state;

(b) “savings and loan association” means any savings and loan association incorporated under the laws of this state or any other state, or organized under the laws of the United States and which has a main or branch office in this state;

(c) “savings bank” means any savings bank organized under the laws of the United States and which has a main or branch office in this state.

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

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

(f) “branch” means any office, ~~agency or other place of business~~ within this state, other than the main office, *that is approved by a federal or state supervisory agency* at which deposits are received, checks paid or money lent ~~with approval of the appropriate regulatory authorities~~. Branch does not include an automated teller machine, remote service unit or similar device *or a loan production office*; and

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

New Sec. 5. At the time that investments of public moneys described in K.S.A. 12-1675, and amendments thereto, mature, the governing body of the governmental subdivision having the authority to receive, hold and expend such public moneys shall reoffer such moneys for deposit to eligible banks, savings and loan associations or savings banks defined in K.S.A. 12-1675a, and amendments thereto.

Sec. 6. K.S.A. 9-1401, 9-1408 and 12-1675a and K.S.A. 2005 Supp. 12-1675 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*