

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 854**

Introduced by Williams, 36.

Read first time January 09, 2020

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Public Funds Deposit Security Act; to
- 2 amend sections 77-2398 and 77-23,100, Revised Statutes Supplement,
- 3 2019; to change provisions relating to secured deposits and pooled
- 4 collateral; to change reporting requirements as prescribed; to
- 5 repeal the original sections; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2398, Revised Statutes Supplement, 2019, 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 the aggregate market value of the pool of  
16 securities so deposited, pledged, or in which a security interest is  
17 granted is at least equal to one hundred two percent of the amount on  
18 deposit which is in excess of the amount so insured or guaranteed. Each  
19 such bank, capital stock financial institution, or qualifying mutual  
20 financial institution shall carry on its accounting records at all times  
21 a general ledger or other appropriate account of the total amount of all  
22 public money or public funds to be secured by a deposit guaranty bond or  
23 by the pool of securities, or any combination thereof, as determined at  
24 the opening of business each day, and the total value of the deposit  
25 guaranty bond or the aggregate market value of the pool of securities  
26 deposited, pledged, or in which a security interest is granted to secure  
27 such public money or public funds. For purposes of this section, a pool  
28 of securities shall include shares of investment companies registered  
29 under the federal Investment Company Act of 1940 when the investment  
30 companies' assets are limited to obligations that are eligible for  
31 investment by the bank, capital stock financial institution, or

1 qualifying mutual financial institution and limited by their prospectuses  
2 to owning securities enumerated in section 77-2387.

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

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

13 (b)(i) Under the single bank pooled method, a bank, capital stock  
14 financial institution, or qualifying mutual financial institution may  
15 secure the deposit of public money or public funds of one or more  
16 governmental units by providing a deposit guaranty bond or through a pool  
17 of eligible securities established by such bank, capital stock financial  
18 institution, or qualifying mutual financial institution with a qualified  
19 trustee, or any combination thereof, to be held subject to the order of  
20 the director or the administrator for the benefit of the governmental  
21 units having public money or public funds with such bank, capital stock  
22 financial institution, or qualifying mutual financial institution as set  
23 forth in subsection (1) of this section. A bank, capital stock financial  
24 institution, or qualifying mutual financial institution may not retain  
25 any deposit of public money or public funds which is required to be  
26 secured unless, within ten days thereafter or such shorter period as has  
27 been agreed upon by the bank, capital stock financial institution, or  
28 qualifying mutual financial institution and the director, it has secured  
29 the deposits for the benefit of the governmental units having public  
30 money or public funds with such bank, capital stock financial  
31 institution, or qualifying mutual financial institution pursuant to this

1 section.

2 (ii) The director shall designate a bank, savings association, trust  
3 company, or other qualified firm, corporation, or association which is  
4 authorized to transact business in this state to serve as the  
5 administrator with respect to a single bank pooled method. Fees and  
6 expenses of such administrator shall be paid by the banks, capital stock  
7 financial institutions, or qualifying mutual financial institutions  
8 utilizing the single bank pooled method.

9 (iii) If a bank, capital stock financial institution, or qualifying  
10 mutual financial institution elects to secure the deposit of public money  
11 or public funds through the use of the single bank pooled method, such  
12 bank, capital stock financial institution, or qualifying mutual financial  
13 institution shall notify the administrator in writing that it has elected  
14 to utilize the single bank pooled method and the proposed effective date  
15 thereof.

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

21 (3) Only a deposit guaranty bond and the securities listed in  
22 subdivision (14) of section 77-2387 may be provided and accepted as  
23 security for the deposit of public money or public funds and shall be  
24 eligible as collateral. The qualified trustee shall not accept any  
25 securities which are not listed in subdivision (14) of section 77-2387.

26 Sec. 2. Section 77-23,100, Revised Statutes Supplement, 2019, is  
27 amended to read:

28 77-23,100 (1) Any bank, capital stock financial institution, or  
29 qualifying mutual financial institution in which public money or public  
30 funds have been deposited which satisfies its requirement to secure the  
31 deposit of public money or public funds in excess of the amount insured

1 or guaranteed by the Federal Deposit Insurance Corporation, in whole or  
2 in part, by the deposit, pledge, or granting of a security interest in a  
3 single pool of securities shall designate a qualified trustee and place  
4 with the trustee for holding the securities so deposited, pledged, or in  
5 which a security interest has been granted pursuant to subsection (1) of  
6 section 77-2398, subject to the order of the director or the  
7 administrator. The bank, capital stock financial institution, or  
8 qualifying mutual financial institution shall give written notice of the  
9 designation of the qualified trustee to any custodial official depositing  
10 public money or public funds for which such securities are deposited,  
11 pledged, or in which a security interest has been granted, and if an  
12 affiliate of the bank, capital stock financial institution, or qualifying  
13 mutual financial institution is to serve as the qualified trustee, the  
14 notice shall disclose the affiliate relationship and shall be given prior  
15 to designation of the qualified trustee. The custodial official shall  
16 accept the written receipt of the trustee describing the pool of  
17 securities so deposited, pledged, or in which a security interest has  
18 been granted by the bank, capital stock financial institution, or  
19 qualifying mutual financial institution, a copy of which shall also be  
20 delivered to the bank, capital stock financial institution, or qualifying  
21 mutual financial institution.

22 (2) Any bank, capital stock financial institution, or qualifying  
23 mutual financial institution which satisfies its requirement to secure  
24 the deposit of public money or public funds in excess of the amount  
25 insured or guaranteed by the Federal Deposit Insurance Corporation under  
26 the Public Funds Deposit Security Act, in whole or in part, by providing  
27 a deposit guaranty bond pursuant to the provisions of subsection (1) of  
28 section 77-2398, shall designate the director and cause to be issued a  
29 deposit guaranty bond which runs to the director acting for the benefit  
30 of the governmental units having public money or public funds on deposit  
31 with such bank, capital stock financial institution, or qualifying mutual

1 financial institution and which is conditioned that the bank, capital  
2 stock financial institution, or qualifying mutual financial institution  
3 shall render to the administrator the statement required under subsection  
4 (3) of this section.

5 (3) Each bank, capital stock financial institution, or qualifying  
6 mutual financial institution which satisfies its requirement to secure  
7 the deposit of public money or public funds in excess of the amount  
8 insured or guaranteed by the Federal Deposit Insurance Corporation by  
9 providing a deposit guaranty bond or by depositing, pledging, or granting  
10 a security interest in a single pool of securities, or any combination  
11 thereof, shall, on or before the tenth day of each month, render to the  
12 administrator a statement showing as of the last business day of the  
13 previous month (a) the amount of public money or public funds deposited  
14 in such bank, capital stock financial institution, or qualifying mutual  
15 financial institution that is not insured or guaranteed by the Federal  
16 Deposit Insurance Corporation (i) by each governmental unit ~~custodial~~  
17 ~~official~~ separately and (ii) by all governmental units ~~custodial~~  
18 ~~officials~~ in the aggregate and (b) the total value of the deposit  
19 guaranty bond and the aggregate market value of the pool of securities  
20 deposited, pledged, or in which a security interest has been granted  
21 pursuant to subsection (1) of section 77-2398. The director shall be  
22 authorized, acting for the benefit of the governmental units having  
23 public money or public funds on deposit with such bank, capital stock  
24 financial institution, or qualifying mutual financial institution, to  
25 take any and all actions necessary to take title to or to effect a first  
26 perfected security interest in the securities deposited, pledged, or in  
27 which a security interest is granted.

28 (4) Within twenty days after the deadline for receiving the  
29 statement required under subsection (3) of this section from a bank,  
30 capital stock financial institution, or qualifying mutual financial  
31 institution, the administrator shall provide a report to each

1 ~~governmental unit custodial official~~ listed in such statement reflecting  
2 (a) the amount of public money or public funds deposited in such bank,  
3 capital stock financial institution, or qualifying mutual financial  
4 institution by each ~~governmental unit custodial official~~ as of the last  
5 business day of the previous month that is not insured or guaranteed by  
6 the Federal Deposit Insurance Corporation and that is secured pursuant to  
7 subsection (1) of section 77-2398 and (b) the total value of the deposit  
8 guaranty bond and the aggregate market value of the pool of securities  
9 deposited, pledged, or in which a security interest is granted pursuant  
10 to subsection (1) of section 77-2398 as of the last business day of the  
11 previous month. The report shall clearly notify the ~~governmental unit~~  
12 ~~custodial official~~ if the value of the deposit guaranty bond provided or  
13 the securities deposited, pledged, or in which a security interest has  
14 been granted, or any combination thereof, do ~~does~~ not meet the statutory  
15 requirement. The report required by this subsection shall be deemed to  
16 have been provided to a governmental unit upon posting of the report by  
17 the administrator on its web site for access by governmental units  
18 participating under the single bank pooled method.

19       Sec. 3. Original sections 77-2398 and 77-23,100, Revised Statutes  
20 Supplement, 2019, are repealed.

21       Sec. 4. Since an emergency exists, this act takes effect when  
22 passed and approved according to law.