

Introduced by

Senators Burckhard, Kannianen, Dotzenrod

Representatives Hatlestad, Magrum, Toman

1 A BILL for an Act to amend and reenact section 21-04-09 of the North Dakota Century Code,
2 relating to pledge of security in place of depository bond; and to repeal section 21-04-11 of the
3 North Dakota Century Code, relating to records of securities.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 21-04-09 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **21-04-09. Pledge of security in place of depository bond.**

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

1 securities approved by the banking board. The securities and securities sold under agreements
2 to repurchase as described in section 21-06-07 must be delivered to and held for safekeeping
3 by any financial institution, other than the depository, which the depository and the public
4 corporation may agree upon. Whenever any securities are ~~so~~ deposited for safekeeping with
5 ~~any~~ a custodian, the custodian shall issue a joint receipt ~~therefor jointly~~ to the depository and the
6 public corporation.

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

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

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

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

30 A financial institution is in compliance with this section as long as the security pledge
31 schedule discloses the total qualified securities pledged in excess of the total pledges needed

1 for a total amount of deposits maintained by all the public bodies with the financial institution as
2 verified by the custodian of the securities every three months and copies thereof are provided to
3 the custodian of the securities and to each of the public corporations maintaining deposits with
4 the financial institution.

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

13 **SECTION 2. REPEAL.** Section 21-04-11 of the North Dakota Century Code is repealed.