S T A T E O F N E W Y O R K

3161

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law and the banking law, in relation to the establishment of a savings bank, savings and loan association or credit union municipal deposit program, and limiting deposits of public funds in such institutions to two hundred fifty thousand dollars

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph c of subdivision 1 of section 10 of the general municipal law, as amended by chapter 623 of the laws of 1998, is amended to read as follows:

c. "Public deposits" shall mean deposits of public funds in a bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, or trust company which are available for all uses generally permitted by the bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, or trust company to the depositing local government for actually and finally collected funds under the bank's, SAVINGS BANK'S, SAVINGS AND LOAN ASSOCIATION'S, CREDIT UNION'S, or trust company's account agreement or policies.

S 2. Paragraphs f, g and h of subdivision 1 of section 10 of the general municipal law are relettered paragraphs g, h and i and three new paragraphs f, j and k are added to read as follows:

F. "CREDIT UNION" SHALL MEAN A STATE-CHARTERED CREDIT UNION AS DEFINED BY SUBDIVISION NINE OF SECTION TWO OF THE BANKING LAW OR A FEDERALLY-CHARTERED CREDIT UNION AS DEFINED BY THE FEDERAL CREDIT UNION ACT, LOCATED AND AUTHORIZED TO DO BUSINESS IN NEW YORK.

J. "SAVINGS BANK" SHALL MEAN A SAVINGS BANK AS DEFINED BY SUBDIVISION FOUR OF SECTION TWO OF THE BANKING LAW OR ANY FEDERAL SAVINGS BANK.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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K. "SAVINGS AND LOAN ASSOCIATION" SHALL MEAN A SAVINGS AND LOAN ASSOCIATION AS DEFINED BY SUBDIVISION EIGHT OF SECTION TWO OF THE BANKING LAW OR ANY FEDERAL SAVINGS AND LOAN ASSOCIATION.

S 3. Subdivisions 2 and 4 of section 10 of the general municipal law, as amended by chapter 623 of the laws of 1998, paragraph a of subdivision 2 as amended by chapter 128 of the laws of 2012, and paragraph c of subdivision 2 and paragraph e of subdivision 4 as further amended by section 104 of part A of chapter 62 of the laws of 2011, are amended to read as follows:

2. a. (i) The governing board of every local government shall designate one or more banks, SAVINGS BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS or trust companies for the deposit of public funds, the disposition of which is not otherwise provided for by law, received by the chief fiscal officer or any other officer authorized by law to make deposits. Such designation shall be by resolution of the governing board or, in the case of a city, such other body as may be authorized or required by law to designate depositaries. Such resolution shall specify the maximum amount which may be kept on deposit at any time in each such bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company. Such designations and amounts may be changed at any time by further resolution.

(ii) The governing board of a local government that has designated one or more banks, SAVINGS BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS or trust companies for the deposit of public funds pursuant to subparagraph (i) of this paragraph may, in its discretion, authorize the designated bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company to arrange for the redeposit of the local government's funds in one or more banking institutions, as defined in section nine-r of the banking law, for the account of the local government, through a deposit placement program that meets all of the following conditions:

(A) On or after the date that the local government's funds are received, the designated bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company (I) arranges for the redeposit of such funds into deposit accounts in one or more banking institutions and (II) serves as custodian for the local government with respect to the funds redeposited into such accounts.

(B) Local government funds deposited in a designated bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company in accordance with this subparagraph and held in the designated bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company in excess of the amount insured by the federal deposit insurance corporation pending redeposit of the funds pursuant to this subparagraph shall be secured in accordance with subdivision three of this section.

(C) The full amount of local government funds redeposited by the designated bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company into deposit accounts in banking institutions pursuant to this subparagraph (plus accrued interest, if any) shall be insured by the federal deposit insurance corporation.

(D) At the same time that the money of the local government is redeposited pursuant to this subparagraph, the selected depository receives an amount of deposits from customers of other financial institutions pursuant to the deposit placement program that are at least equal to the amount of the local government's funds redeposited by the designated bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company.

(III) THE GOVERNING BOARD OF EVERY LOCAL GOVERNMENT SHALL FORWARD A COPY OF SUCH RESOLUTION TO THE OFFICE OF THE STATE COMPTROLLER WHO SHALL RETAIN SUCH COPY UNTIL SUCH RESOLUTION IS AMENDED OR DISSOLVED. A COPY OF SUCH RESOLUTION SHALL BE RETAINED BY THE STATE COMPTROLLER FOR RECORD KEEPING PURPOSES ONLY.

b. PUBLIC FUNDS DEPOSITED INTO A SAVINGS BANK, FEDERAL SAVINGS BANK, CREDIT UNION, FEDERAL CREDIT UNION, SAVINGS AND LOAN ASSOCIATION OR FEDERAL SAVINGS AND LOAN ASSOCIATION SHALL BE LIMITED TO TWO HUNDRED FIFTY THOUSAND DOLLARS.

C. Except as otherwise provided by law, all deposits shall be made to the credit of the local government. The deposit of public funds pursuant to this subdivision shall release the officer making the deposit and his or her surety from any liability for loss of such public funds by reason of the default or insolvency of any such bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company.

[c.] D. The governing board of a local government, in which a banking development district has been designated by the superintendent of financial services pursuant to section ninety-six-d of the banking law, may designate a bank, trust company or national bank located in such district for the deposit of public funds, the disposition of which is not otherwise provided for by law, received by the chief fiscal officer or other officer authorized by law to make such deposits. Such designation shall be by resolution of the governing board or, in the case of a city, such other body as may be authorized or required by law to designate depositories. Such resolution shall specify the maximum amount which may be kept on deposit at any time with such bank, trust company or national bank located in such district. Subject to an agreement between such governing board and such banking institution, public funds deposited in such banking institution may earn a fixed interest rate which is at or below such banking institution's posted two year certificate of deposit rate. In those instances where there is such an agreement, its terms and conditions shall also be specified in the resolution. Any such designation, amount, or agreement provisions may be changed at any time by further resolution.

4. (a) Notwithstanding any other provision of law to the contrary, the chief fiscal officer, or other officer authorized by law to make deposits, may, subject to the approval of the governing body of a local government, by resolution, enter into a contract with a courier service for the purpose of causing the deposit of public funds with a bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company as provided in this section.

(b) The entrusting of public funds for deposit pursuant to paragraph (a) of this subdivision shall release the officer entrusting the public funds to the courier service and his or her surety from any liability for loss of such public funds by the courier service in the process of delivering such public funds to the designated bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company.

(c) The local government authorizing the deposit of public funds by a courier service pursuant to paragraph (a) of this subdivision shall require the courier service to obtain a surety bond for the full amount entrusted to the courier, payable to the local government and executed by an insurance company authorized to do business in this state, the claims paying ability of which is rated in the highest rating category by at least two nationally recognized statistical rating organizations, to insure against any loss of public funds entrusted to the courier

service for deposit or failure to deposit the full amount entrusted to the courier.

(d) A deposit made by a courier on behalf of a local government shall be deemed to be a deposit made by the chief fiscal officer or other officer entrusting such funds for purposes of the requirements contained in this section for securing public deposits.

(e) A bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company may, from time to time and as agreed upon with a local government, reimburse all or part of, but not more than, the actual cost incurred by the local government in transporting cash, negotiable instruments or other items for deposit through a courier service. Any such reimbursement agreement shall apply only to a specified deposit transaction, and may be subject to such terms, conditions and limitations as the bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company deems necessary to ensure sound banking practices, including, but not limited to, any terms, conditions or limitations that may be required by the department of financial services or other federal or state authority.

S 4. Subdivision 2 of section 11 of the general municipal law, as amended by chapter 128 of the laws of 2012, is amended to read as follows:

2. a. The governing board of any local government or, if the governing board so delegates, the chief fiscal officer or other officer having custody of the moneys may temporarily invest moneys not required for immediate expenditure, except moneys the investment of which is otherwise provided for by law, either: (1) in special time INTEREST-BEARING deposit accounts in, or certificates of deposit OR SHARE CERTIFICATES issued by, a bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR SHARE CERTIFICATES ISSUED BY A CREDIT UNION or trust company located and authorized to do business in this state; or (2) in accordance with all of the following conditions:

(i) the moneys are invested through a bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company located and authorized to do business in this state;

(ii) the bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company arranges for the deposit of the moneys in certificates of deposit OR SHARE CERTIFICATES in one or more banking institutions, as defined in section nine-r of the banking law, for the account of the local government;

(iii) the full amount of principal and accrued interest of each such certificate of deposit OR SHARE CERTIFICATE must be insured by the federal deposit insurance corporation;

(iv) the bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company acts as custodian for the local government with respect to such certificates of deposit OR SHARE CERTIFICATES issued for the local government's account; and

(v) at the same time that the local government's moneys are deposited and the certificates of deposit OR SHARE CERTIFICATES are issued for the account of the local government, the bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company receives an amount of deposits from customers of other financial institutions equal to or greater than the amount of the moneys invested by the local government through the bank, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION or trust company.

b. For any investment made pursuant to paragraph a of this subdivision, such time INTEREST-BEARING deposit account or certificate of

deposit OR SHARE CERTIFICATE shall be payable within such time as the proceeds shall be needed to meet expenditures for which such moneys were obtained and provided further that such time INTEREST-BEARING deposit account or certificate of deposit OR SHARE CERTIFICATE be secured in the same manner as is provided for securing deposits of public funds by subdivision three of section ten of this article.

S 5. The banking law is amended by adding a new section 454-a to read as follows:

S 454-A. DEPOSITS OF PUBLIC MONEY WITH CREDIT UNIONS; SECURITY. A CREDIT UNION MAY ACCEPT DEPOSITS OF PUBLIC MONEY SUBJECT TO THE LIMITATIONS PROVIDED IN SECTION TEN OF THE GENERAL MUNICIPAL LAW. SUCH CREDIT UNION SHALL PLEDGE ASSETS OR FURNISH OTHER SECURITY SATISFACTORY IN FORM AND AMOUNT TO THE DEPOSITOR, FOR THE REPAYMENT OF MONIES HELD IN THE NAME OF SUCH DEPOSITOR, WHEN REQUIRED TO BE SECURED BY APPLICABLE LAW, DECREE OR REGULATION.

S 6. This act shall take effect on the sixtieth day after it shall have become a law.