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

6221

2009-2010 Regular Sessions

I N S E N A T E

October 14, 2009

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the banking law, the state finance law, the education law, the general city law, the general municipal law, the second class cities law and the village law, in relation to permitting savings banks, savings and loan associations and credit unions to accept deposits from municipal corporations and authorizing the deposit of certain public funds of political subdivisions and school districts in savings banks, savings and loan associations, and credit unions; and to repeal certain provisions of the banking law relating thereto

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

Section 1. The banking law is amended by adding a new section 234-c to read as follows:

S 234-C. DEPOSITS RECEIVED FROM POLITICAL SUBDIVISIONS. A SAVINGS BANK THAT RECEIVES DEPOSITS, INCLUDING DEMAND, TRANSACTION AND/OR TIME DEPOSITS, FROM A POLITICAL SUBDIVISION OF THIS STATE AND ACTS THEREBY AS A DEPOSITARY OF ITS PUBLIC MONEYS, MAY SECURE ANY PORTION OF SUCH DEPOSIT WHICH IS NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR BY THE SAVINGS ASSOCIATION INSURANCE FUND:

(A) A PLEDGE OF SUCH OBLIGATIONS OR SECURITIES AS SHALL LAWFULLY BE REQUIRED OR ACCEPTED BY SUCH DEPOSITOR; OR

(B) IN LIEU OF SUCH PLEDGE, BY FURNISHING THE POLITICAL SUBDIVISION WITH A GOOD AND SUFFICIENT UNDERTAKING WITH SUFFICIENT SURETIES IN ACCORDANCE WITH THE REQUIREMENTS OF OTHER PROVISIONS OF LAW APPLICABLE TO THE MONEYS OF THE POLITICAL SUBDIVISION.

A SAVINGS BANK IS HEREBY AUTHORIZED AND EMPOWERED TO RECEIVE SUCH DEPOSITS, INCLUDING DEMAND, TRANSACTION, AND/OR TIME DEPOSITS, TO ACT AS SUCH DEPOSITARY (INCLUDING THE POWERS CONTAINED IN SECTION NINETY-SIX-B OF THIS CHAPTER), AND TO SECURE SUCH DEPOSITS BY SUCH PLEDGE OR BY SUCH UNDERTAKING. FOR THE PURPOSES OF THIS SECTION THE TERM "POLITICAL SUBDI-

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

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VISION" INCLUDES A COUNTY, TOWN, CITY, VILLAGE, SCHOOL DISTRICT, FIRE DISTRICT, PARK DISTRICT OR IMPROVEMENT DISTRICT TO WHICH ARTICLE THIRTEEN OF THE TOWN LAW APPLIES. THE POWERS GRANTED TO A SAVINGS BANK BY THIS SECTION SHALL BE IN ADDITION TO, AND NOT IN LIMITATION OF, THE POWERS CONFERRED ON SAVINGS BANKS BY OTHER PROVISIONS OF LAW.

S 2. Subdivision 2 of section 237 of the banking law is REPEALED.

S 3. The banking law is amended by adding a new section 378-f to read as follows:

S 378-F. DEPOSITS RECEIVED FROM POLITICAL SUBDIVISION. A SAVINGS AND LOAN ASSOCIATION THAT RECEIVES DEPOSITS, INCLUDING DEMAND, TRANSACTION AND/OR TIME DEPOSITS, FROM A POLITICAL SUBDIVISION OF THIS STATE AND ACTS THEREBY AS A DEPOSITARY OF ITS PUBLIC MONEYS, MAY SECURE ANY PORTION OF SUCH DEPOSIT WHICH IS NOT INSURED BY THE SAVINGS ASSOCIATION INSURANCE FUND:

(A) A PLEDGE OF SUCH OBLIGATIONS OR SECURITIES AS SHALL LAWFULLY BE REQUIRED OR ACCEPTED BY SUCH DEPOSITOR; OR

(B) IN LIEU OF SUCH PLEDGE, BY FURNISHING THE POLITICAL SUBDIVISION WITH A GOOD AND SUFFICIENT UNDERTAKING WITH SUFFICIENT SURETIES IN ACCORDANCE WITH THE REQUIREMENTS OF OTHER PROVISIONS OF LAW APPLICABLE TO THE MONEYS OF THE POLITICAL SUBDIVISION.

A SAVINGS AND LOAN ASSOCIATION IS HEREBY AUTHORIZED AND EMPOWERED TO RECEIVE SUCH DEPOSITS, INCLUDING DEMAND, TRANSACTION AND/OR TIME DEPOSITS, TO ACT AS SUCH DEPOSITARY (INCLUDING THE POWERS CONTAINED IN SECTION NINETY-SIX-B OF THIS CHAPTER), AND TO SECURE SUCH DEPOSITS BY SUCH PLEDGE OR BY SUCH UNDERTAKING. FOR THE PURPOSES OF THIS SECTION, THE TERM "POLITICAL SUBDIVISION" INCLUDES A COUNTY, TOWN, CITY, VILLAGE, SCHOOL DISTRICT, FIRE DISTRICT, PARK DISTRICT OR IMPROVEMENT DISTRICT TO WHICH ARTICLE THIRTEEN OF THE TOWN LAW APPLIES. THE POWERS GRANTED TO A SAVINGS AND LOAN ASSOCIATION BY THIS SECTION SHALL BE IN ADDITION TO, AND NOT IN LIMITATION OF, THE POWERS CONFERRED ON SAVINGS AND LOAN ASSOCIATIONS BY OTHER PROVISIONS OF LAW.

NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, ANY DEPOSITS RECEIVED FROM A POLITICAL SUBDIVISION SHALL NOT BE CONSTRUED TO CONSTITUTE MEMBERSHIP IN THE SAVINGS AND LOAN ASSOCIATION AND SHALL BE CONSTRUED TO BE THAT OF A CREDITOR OF THE SAVINGS AND LOAN ASSOCIATION.

S 4. Section 464 of the banking law is amended by adding a new subdivision 4 to read as follows:

4. A CREDIT UNION THAT RECEIVES DEPOSITS, INCLUDING DEMAND, TRANSACTION AND/OR TIME DEPOSITS, FROM A POLITICAL SUBDIVISION OF THIS STATE AND ACTS THEREBY AS A DEPOSITARY OF ITS PUBLIC MONEYS, MAY SECURE ANY PORTION OF SUCH DEPOSIT WHICH IS NOT INSURED BY THE NATIONAL CREDIT UNION ADMINISTRATION BY:

(A) A PLEDGE OF SUCH OBLIGATIONS OR SECURITIES AS SHALL LAWFULLY BE REQUIRED OR ACCEPTED BY SUCH DEPOSITOR; OR

(B) IN LIEU OF SUCH PLEDGE BY FURNISHING THE POLITICAL SUBDIVISION WITH A GOOD AND SUFFICIENT UNDERTAKING WITH SUFFICIENT SURETIES IN ACCORDANCE WITH THE REQUIREMENTS OF OTHER PROVISIONS OF LAW APPLICABLE TO THE MONEYS OF THE POLITICAL SUBDIVISION.

A CREDIT UNION IS HEREBY AUTHORIZED AND EMPOWERED TO RECEIVE SUCH DEPOSITS, INCLUDING DEMAND, TRANSACTION AND/OR TIME DEPOSITS, TO ACT AS SUCH DEPOSITARY (INCLUDING THE POWERS CONTAINED IN SECTION NINETY-SIX-B OF THIS CHAPTER), AND TO SECURE SUCH DEPOSITS BY SUCH PLEDGE OR BY SUCH UNDERTAKING. FOR THE PURPOSE OF THIS SECTION THE TERM "POLITICAL SUBDIVISION" INCLUDES A COUNTY, TOWN, CITY, VILLAGE, SCHOOL DISTRICT, FIRE DISTRICT, PARK DISTRICT OR IMPROVEMENT DISTRICT TO WHICH ARTICLE THIRTEEN OF THE TOWN LAW APPLIES. THE POWERS GRANTED TO A CREDIT UNION BY

THIS SECTION SHALL BE IN ADDITION TO, AND NOT IN LIMITATION OF, THE POWERS CONFERRED ON A CREDIT UNION BY OTHER PROVISIONS OF LAW.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY DEPOSITS RECEIVED FROM A POLITICAL SUBDIVISION SHALL NOT BE CONSTRUED TO CONSTITUTE MEMBERSHIP IN THE CREDIT UNION AND SHALL BE CONSTRUED TO BE THAT OF A CREDITOR OF THE CREDIT UNION.

S 5. Subdivision 1 and the opening paragraph of subdivision 2 of section 105 of the state finance law, subdivision 1 as amended by chapter 204 of the laws of 2002 and the opening paragraph of subdivision 2 as amended by chapter 154 of the laws of 1953, are amended to read as follows:

1. All moneys received by the commissioner of taxation and finance on account of the state, excepting such moneys as are required by law to be deposited to the credit of the comptroller, but including such moneys as are thereafter paid into the state treasury by the comptroller, shall be deposited by the commissioner of taxation and finance within three days after the receipt thereof, either as a demand deposit or an interest-bearing [time] deposit (other than a time certificate of deposit), as he and the comptroller may determine, in such banks, trust companies [and industrial banks], CREDIT UNIONS, SAVINGS BANKS AND SAVINGS AND LOAN ASSOCIATIONS as in his opinion and the opinion of the comptroller are secure. The moneys so deposited shall be placed to the account of the commissioner of taxation and finance. He shall keep a bankbook in which shall be entered his account of deposit in and moneys drawn from the banks and trust companies [and industrial banks], CREDIT UNIONS, SAVINGS BANKS AND SAVINGS AND LOAN ASSOCIATIONS in which deposits are made by him, which he shall exhibit to the comptroller for his inspection on the first Tuesday of every month and oftener if required. He shall not draw any moneys from such banks, trust companies [or industrial banks], CREDIT UNIONS, SAVINGS BANKS OR SAVINGS AND LOAN ASSOCIATIONS unless by checks signed and countersigned in the manner prescribed by section one hundred one OF THIS CHAPTER, unless otherwise provided by law. No moneys shall be paid by any such bank, trust company [or industrial bank], CREDIT UNION, SAVINGS BANK OR SAVINGS AND LOAN ASSOCIATION out of any such deposit except upon such checks. Moneys may be paid through electronic transfer in accordance with procedures developed by the commissioner of taxation and finance and the comptroller and consistent with the requirements of this section for recording payments. Such payments through electronic transfer shall be considered, for purposes of this chapter, to be moneys drawn by check. Every such bank, trust company [or industrial bank], CREDIT UNION, SAVINGS BANK OR SAVINGS AND LOAN ASSOCIATION shall transmit to the comptroller monthly statements of all moneys received and paid by it on account of the commissioner of taxation and finance.

Every bank, trust company [and industrial bank], CREDIT UNION, SAVINGS BANK OR SAVINGS AND LOAN ASSOCIATION designated for the deposit of state moneys under the provisions of this section shall, before deposits are made:

S 6. The opening, second and third undesignated paragraphs of section 106 of the state finance law, the second undesignated paragraph as amended by chapter 293 of the laws of 1992, are amended to read as follows:

Such moneys received by the commissioner of taxation and finance as are now deposited to the credit of the comptroller pursuant to statute, and thereafter paid into the state treasury, shall be deposited by him to the credit of the comptroller in such bank [or], trust company,

SAVINGS BANK, CREDIT UNION OR SAVINGS AND LOAN ASSOCIATION as shall be designated by the comptroller at such rate of interest, if any, as shall be agreed upon by the depositary and the comptroller.

All other moneys received by the commissioner of taxation and finance except as provided in section one hundred five of this article and all moneys received by any other state officer or other person receiving moneys belonging to the state, or for which such state officer or other person may be responsible in his official capacity, and all moneys received by any state institution, except for moneys received pursuant to a clinical practice plan established pursuant to subdivision fourteen of section two hundred six of the public health law and all moneys received from the state by any charitable or benevolent institution supported in whole or in part by the state, shall be deposited to his or its credit in such bank [or], trust company, SAVINGS BANK, CREDIT UNION OR SAVINGS AND LOAN ASSOCIATION as shall be designated by the comptroller at such rate of interest, if any, as shall be agreed upon by the depositary and the comptroller.

Every [bank or trust company] DEPOSITARY designated by the comptroller for the deposit of any such moneys

S 7. Subdivision 1 of section 2523 of the education law, as amended by chapter 794 of the laws of 1951, is amended to read as follows:

1. The treasurer of each city school district shall demand, collect, receive and have the care and custody of moneys belonging to or due the district from every source. On the business day next following the day of their receipt the treasurer shall deposit in his name, as treasurer of the city school district, all such moneys in or with ONE OR MORE OR ANY COMBINATION OF such banks [or], trust companies, SAVINGS BANKS, CREDIT UNIONS OR SAVINGS AND LOAN ASSOCIATIONS as shall have been designated as depositaries of the moneys of such district. Where the board of education with the written consent of the city authorities, has appointed a city officer as city school district treasurer, such treasurer may not commingle school district funds with city funds.

S 8. Section 3-a of the general city law, as added by chapter 519 of the laws of 1936, is amended to read as follows:

S 3-a. Liability of city officials. No official of any city of this state who shall deposit any moneys coming into his hands by virtue of his office in any bank, savings bank, national banking association, CREDIT UNION, trust company, SAVINGS AND LOAN ASSOCIATION, or with any private banker, in accordance with the provisions of any general or local law or charter, or in accordance with the official action taken by the governing body or board of any such city, shall be liable for the loss of any such moneys resulting from the default or insolvency of any such depositary.

S 9. Subdivision 2 of section 11 of the general municipal law, as amended by chapter 708 of the laws of 1992, is amended to read as follows:

2. 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, in [special time] INTEREST-BEARING deposit accounts in, or certificates of deposit issued by, a bank or trust company, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION located and authorized to do business in this state, provided however, that such [time] deposit account or certificate of deposit shall be payable within such time as the proceeds shall be needed to meet expend-

itures for which such moneys were obtained and provided further that such [time] deposit account or certificate of deposit be secured in the same manner as is provided for securing deposits of public funds by subdivision three of section ten of this article. NOTWITHSTANDING THE ABOVE, A CITY OF ONE MILLION OR MORE SHALL NOT BE REQUIRED TO DEPOSIT OR INVEST MONEYS NOT REQUIRED FOR IMMEDIATE EXPENDITURE IN INTEREST-BEARING DEPOSIT ACCOUNTS OR CERTIFICATES OF DEPOSIT.

S 10. Section 70 of the second class cities law is amended to read as follows:

S 70. Deposits and accounts. All moneys deposited by the treasurer, as provided herein, shall be placed to the credit of the city. The treasurer shall keep bank books in which shall be entered his accounts or deposits in, and moneys drawn from, the [banks or trust companies] DEPOSITARIES in which such deposits shall be made. He shall exhibit such books to the comptroller for his inspection at least once each month, and oftener if required. The [banks or trust companies] DEPOSITARIES in which such deposits are made[,] shall respectively transmit to the comptroller monthly statements of the moneys which shall have been received and paid out by them on account of the city.

S 11. Subdivision b of section 4-408 of the village law is amended to read as follows:

b. deposit, within ten days after receipt thereof, in the name of the village, in [a bank or trust company] DEPOSITARIES designated by the board of trustees, all monies received by him;

S 12. Paragraph d 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:

d. "Bank" shall mean a bank, OR SAVINGS BANK OR SAVINGS AND LOAN ASSOCIATION as defined by the banking law or a national banking association located and authorized to do business in New York.

S 13. Subdivision 1 of section 10 of the general municipal law is amended by adding a new paragraph i to read as follows:

I. "CREDIT UNION" SHALL MEAN A CREDIT UNION AS DEFINED BY THE BANKING LAW AND AUTHORIZED TO DO BUSINESS IN NEW YORK.

S 14. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 15. This act shall take effect immediately.

REPEAL NOTE.--Subdivision 2 of section 237 of the banking law, repealed by section two of this act, prohibits a savings bank from accepting the deposits of a municipal corporation.