

# STATE OF NEW YORK

9809

## IN ASSEMBLY

April 19, 2022

Introduced by M. of A. THIELE -- read once and referred to the Committee on Local Governments

AN ACT to amend the local finance law, in relation to the delivery of the good faith deposit following award of the bonds to the successful bidder

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 3 of paragraph c of section 58.00 of the local  
2 finance law, as amended by chapter 416 of the laws of 2012, is amended  
3 to read as follows:

4 3. [~~A requirement that as a condition precedent to the consideration~~  
5 ~~of his or her bid, each~~] The successful bidder shall deposit with such  
6 official as the agency in charge of the sale may designate, a certified  
7 or cashier's check drawn upon an incorporated bank or trust company to  
8 the order of the municipality, school district or district corporation  
9 or such official, for the amount specified in the notice, but in no  
10 event less than one-half of one per centum of the amount of bonds  
11 to be bid for. Notwithstanding the provisions of this subdivision, a  
12 municipality, school district or district corporation may require that  
13 such deposit be made as a condition precedent to the consideration of a  
14 bid for the bonds. Such notice may also provide that, in lieu of a  
15 certified or cashier's check, [~~bidders may furnish as security~~] the  
16 deposit may also be in the form of cash in such amount remitted by wire  
17 transfer to an account specified in the notice or an eligible surety  
18 bond or an eligible letter of credit, approved by such official as to  
19 form, sufficiency, and manner of execution. For purposes of this  
20 section, "eligible surety bond" shall mean a bond executed by an insurance  
21 company authorized to do business in this state, the claims-paying  
22 ability of which is rated in one of the three highest rating categories  
23 by at least one nationally recognized statistical rating organization;  
24 and "eligible letter of credit" shall mean an irrevocable letter of  
25 credit issued in favor of the municipality, school district or district  
26 corporation, for a term not to exceed ninety days by a bank, as that  
27 term is defined in section two of the banking law, whose commercial

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

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1 paper and other unsecured short-term debt obligations (or, in the case  
2 of a bank which is the principal subsidiary of a holding company, whose  
3 holding company's commercial paper and other unsecured short-term debt  
4 obligations) are rated in one of the three highest rating categories  
5 (based on the credit of such bank or holding company) by at least one  
6 nationally recognized statistical rating organization or by a bank that  
7 is in compliance with applicable federal minimum risk-based capital  
8 requirements.

9 § 2. This act shall take effect immediately.