§ 10. Deposits of public money; security. 1. For purposes of this section:

a. "Local government" shall mean any municipal corporation, school district, board of cooperative educational services, district corporation, special improvement district governed by a separate board of commissioners, industrial development agency or authority or a public library.

b. "Public funds" shall mean funds of a local government.

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

d. "Bank" shall mean a bank as defined by the banking law or a national banking association located and authorized to do business in New York.

e. "Trust company" shall mean a trust company as defined by the banking law and located and authorized to do business in New York.

f. "Eligible securities" shall mean any of the following:

(i) Obligations issued by the United States of America, an agency thereof or a United States government sponsored corporation or obligations fully insured or guaranteed as to the payment of principal and interest by the United States of America, an agency thereof or a United States government sponsored corporation.

(ii) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.

(iii) Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the market value of the obligation that represents the amount of the insurance or guaranty.

(iv) Obligations issued or fully insured or guaranteed by this state,

obligations issued by a municipal corporation, school district or district corporation of this state or obligations of any public benefit corporation which under a specific state statute may be accepted as security for deposit of public moneys.

(v) Obligations issued by states (other than this state) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

(vi) Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

(vii) Obligations of counties, cities and other governmental entities of another state having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

(viii) Obligations of domestic corporations rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization.

(ix) Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by federal bank regulatory agencies.

(x) Commercial paper and bankers' acceptances issued by a bank (other than the bank with which the money is being deposited or invested) rated in the highest short-term category by at least one nationally recognized statistical rating organization and having maturities of not longer than sixty days from the date they are pledged.

(xi) Zero-coupon obligations of the United States government marketed as "Treasury STRIPS".

g. "Eligible surety bond" shall mean a bond 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.

h. "Eligible letter of credit" shall mean an irrevocable letter of credit issued in favor of the local government for a term not to exceed ninety days by a bank (other than the bank with which the money is being

deposited or invested) whose commercial paper and other unsecured short-term debt obligations (or, in the case of a bank which is the principal subsidiary of a holding company, whose holding company's commercial paper and other unsecured short-term debt obligations) are rated in one of the three highest rating categories (based on the credit of such bank or holding company) by at least one nationally recognized statistical rating organization or by a bank (other than the bank with which the money is being deposited or invested) that is incompliance with applicable federal minimum risk-based capital requirements.

2. a. (i) The governing board of every local government shall designate one or more banks 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 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 or trust companies for the deposit of public funds pursuant to subparagraph (i) of this paragraph may, in its discretion, authorize the designated bank 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 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 or trust company in accordance with this subparagraph and held in the designated bank 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 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 or trust company.

b. 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 or trust company.

c. 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.

3. All public deposits in excess of the amount insured under the provisions of the Federal Deposit Insurance Act as now or hereafter amended shall be secured in accordance with this subdivision:

a. The officers making a deposit may accept a pledge of eligible securities having in the aggregate a market value at least equal to the aggregate amount of public deposits from such officers, or a pledge of a pro rata portion of a pool of eligible securities having in the aggregate a market value at least equal to the aggregate amount of public deposits from all such officers within the state at such bank or trust company, together with a security agreement from the bank or trust company. The security agreement and custodial agreement referred to below may be the same agreement including when the bank or trust company holding the public deposits holds the collateral for the public body. The security agreement shall provide that such eligible securities or pro rata portion of a pool of eligible securities are being pledged by the bank or trust company as security for the public deposits, together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposit upon a default. It shall also provide for the conditions under which the securities or pro rata portion of a pool of eligible securities held may be sold, presented for payment, substituted or released and the events of default which will enable the local government to exercise its rights against the pledged securities. Such agreement shall include all provisions deemed necessary and sufficient to secure in a satisfactory manner the local government's interest in the collateral. The custodial agreement shall provide that the pledged securities or pro rata portion of a pool of eligible securities will be held by the custodial bank or trust company as agent of, and custodian for, the local government, and will be kept separate and apart from the general assets of the custodial bank or trust company and it shall also provide for the manner in which the custodial bank or trust company shall confirm the receipt, substitution or release of the collateral. Such agreement shall provide for the frequency of revaluation of collateral by the custodial bank or trust company and the substitution of collateral when a change in the rating of a security

causes ineligibility pursuant to paragraph f of subdivision one of this section. Such agreement shall include all provisions deemed necessary and sufficient to secure in a satisfactory manner the local government's interest in the collateral. Such agreement may also contain such other provisions as the governing board may deem necessary.

b. Whenever eligible securities delivered to a custodial bank or trust company pursuant to this paragraph are transferred by entries on the books of a federal reserve bank or other book-entry system operated by a federally regulated entity without physical delivery of the evidence of such obligations, the records of the custodial bank or trust company shall show, at all times, the interest of the local government in such securities or pro rata portion of a pool of eligible securities as set forth in the security agreement.

c. (i) In lieu of or in addition to the deposit of eligible securities, the officers making a deposit may accept an eligible surety bond payable to such local government as security for the payment of one hundred percent, or an eligible letter of credit payable to such local government as security for the payment of one hundred forty percent, of the aggregate amount of public deposits from such officers and the agreed upon interest, if any. The terms and conditions of any eligible surety bond shall be approved by the governing board.

(ii) In lieu of or in addition to the deposit of eligible securities, the officers making a deposit may, in the case of an irrevocable letter of credit issued in favor of the local government by a federal home loan bank whose commercial paper and other unsecured short-term debt obligations are rated in the highest rating category by at least one nationally recognized statistical rating organization, accept such letter of credit payable to such local government as security for the payment of one hundred percent of the aggregate amount of public deposits from such officers and the agreed upon interest, if any.

d. For purposes of determining the market value of securities as required by this subdivision:

(i) The eligible securities described in subparagraphs (viii), (x) and (xi) of paragraph f of subdivision one of this section shall be valued

at eighty percent of their market value.

(ii) The eligible securities described in subparagraph (ix) of paragraph f of subdivision one of this section shall be valued at seventy percent of their market value.

(iii) Of the eligible securities described in subparagraphs (v), (vi) and (vii) of paragraph f of subdivision one of this section, those securities rated in the highest category shall be valued at one hundred percent of their market value; those securities rated in the second highest rating category shall be valued at ninety percent of their market value; and those securities rated in the third highest rating category shall be valued at eighty percent of their market value. When two nationally recognized statistical rating organizations rate a security in two different categories, the security shall be considered to be rated in the higher of the two categories.

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 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 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 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 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.