

**STANDARDIZING THE PROCEDURES FOR PLEDGES OF ASSETS**

**Act of Aug. 6, 1971, P.L. 281, No. 72**

**Cl. 72**

AN ACT

Standardizing the procedures for pledges of assets to secure deposits of public funds with banking institutions pursuant to other laws; establishing a standard rule for the types, amounts and valuations of assets eligible to be used as collateral for deposits of public funds; permitting assets to be pledged against deposits on a pooled basis; and authorizing the appointment of custodians to act as pledgees of assets.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Definitions.--As used in this act, the following terms shall have, unless the context clearly indicates otherwise, the following meanings:

(1) "Custodian." A Federal Reserve Bank, a bank, a bank and trust company, a trust company or a national bank.

(2) "Depository." A banking institution authorized to hold deposits of public funds.

(3) "Public body." The Commonwealth or any political subdivision thereof or any agency, authority, board, commission or instrumentality of the Commonwealth or of any political subdivision thereof.

(4) "Public funds." Funds of a public body.

(5) "Public deposits." Deposits of public funds.

Section 2. Scope of Act.--This act provides a standardized procedure for pledging assets to secure deposits of public funds required by other statutes or rules or regulations of public bodies. This act supersedes such other statutes, rules and regulations to the extent they are inconsistent with this act as to pledging of assets on a pooled basis but does not otherwise repeal or affect such other statutes, rules and regulations.

Section 3. Pooling of Pledges; Duties of Depositories.--Unless otherwise instructed by a public body a depository may pledge assets to secure public deposits on a pooled basis in order that the total amount of assets pledged is at least equal to the total amount of such assets required to secure all the public deposits of the depository. It shall be the duty of each depository to maintain continuously the total amount of assets pledged in the required amount and to carry in its accounting records at all times a general ledger or other appropriate account of the total amount of public deposits required to be secured and the total amount of assets pledged to secure such public deposits. The total amount of public deposits required to be secured shall be determined as of the opening of business each day on the basis of the public deposits collected by the depository.

Section 4. Amounts Required to be Pledged; Eligible Assets and Valuation.--Unless the public body shall have instructed the depository in writing that the assets securing its deposits may not be pooled the amount of assets required to secure public deposits, the types of assets which may be used as security and the valuation as collateral of assets pledged shall be either:

(1) the same as those applicable to United States Treasury tax and loan accounts under the provisions of United States Treasury Circular No. 92 as in effect on the effective date of this act, except that the valuation of obligations of the

Commonwealth and public bodies of the Commonwealth shall be at the face value thereof; or

(2) an irrevocable letter of credit issued by a Federal Home Loan Bank in an amount equal to or greater than the total amount of public deposits being secured provided that the Federal Home Loan Bank issuing the irrevocable letter of credit maintains a rating of at least the second highest rating level from one nationally recognized rating agency. If the line of credit to the United States Treasury as set forth in the Federal Home Loan Bank Act (47 Stat. 733, 12 U.S.C. § 1431(i)) is revoked or reduced, then irrevocable letters of credit issued by a Federal Home Loan Bank shall continue to be eligible to secure public deposits only if the Federal Home Loan Bank issuing the irrevocable letter of credit has the highest rating level from one nationally recognized rating agency.

(4 amended Dec. 20, 2000, P.L.986, No.139)

Section 5. Custodians.--Assets securing public deposits shall be delivered to a custodian for the benefit of all public bodies whose funds are secured by the assets from time to time. A banking institution may act as custodian unless disapproved for this purpose by the Comptroller of the Currency in the case of a national bank or by the Department of Banking in the case of a State banking institution. The depository may make changes and substitutions in, additions to and withdrawals from the pool of assets delivered to a custodian, subject to the duty of the depository at all times to maintain the total amount of assets pledged at least in the amount required for all public deposits secured thereby. If the custodian is the trust department of a depository bank it shall have the responsibility to determine the validity of a pledge, the amount of assets required to be pledged and the eligibility or adequacy of the assets pledged and shall use reasonable care in the custody and preservation of the assets in its possession. Except where an agreement among the public body, the depository and the custodian with respect to the handling and disposition of pledged assets which are not pooled with other such assets provides otherwise, in the event of insolvency of a depository, the custodian may surrender the assets in its possession to the receiver or other successor in interest of the depository.

Section 6. Reports.--Upon request of an appropriate official of a public body whose funds are secured by pledged assets, a depository shall make a report of the amount of the funds of such public body on deposit with it, the total amount of public funds on deposit with it and the total amount and valuation of assets pledged to secure such public deposits and a custodian shall make a report of the total amount and valuation of the assets of the depository in its possession to secure public deposits. Such reports shall be made at such date as the public body shall request and shall be given to such authorized public official, accountant or auditor as the public body shall designate in writing. A depository shall also make such periodic reports to the Comptroller of the Currency in the case of a national bank or to the Department of Banking in the case of a State banking institution, as they shall require.

Section 7. Repealer.--All acts and parts of acts inconsistent with the provisions of this act are hereby repealed as to pledging of assets on a pooled basis as provided in section 2.

Section 8. Effective Date.--This act shall take effect on the first day of the third calendar month following the date of its approval.