

§5706. Deposit or investment of funds

As directed by the municipal officers, the treasurer shall invest all municipal funds, including reserve funds and trust funds, to the extent that the terms of the instrument, order or article creating the fund do not prohibit the investment, as follows: [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Financial institutions. In accounts or deposits of institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the successors to these federal agencies.

A. Accounts and deposits exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan association on deposit at any one time must be secured by the pledge of certain securities as collateral, or fully covered by insurance.

(1) The collateral must be in an amount equal to the excess deposit. The municipal officers shall determine the value of the pledged securities on the basis of market value and shall review the value of the pledged securities on the first business day of January and July of each year.

(2) The collateral may consist only of securities in which municipalities may invest, as provided in article 2. The securities must be held in a depository institution approved by the municipal officers and pledged to indemnify the municipalities against any loss. The depository institution shall notify the municipal officers of the pledging when the securities are deposited; [PL 2015, c. 44, §9 (AMD).]

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2. Repurchase agreements. In repurchase agreements with respect to obligations of the United States Government, as defined in section 5712, subsection 1, as long as the market value of the underlying obligation is equal to or greater than the amount of the municipality's investment and either the municipality's security entitlement with respect to the underlying obligation is created pursuant to the provisions of Title 11, Article 8-A and other applicable law or the municipality's security interest is perfected pursuant to the provisions of Title 11, Article 9-A and other applicable law, except that, if the term of the repurchase agreement is not in excess of 96 hours, the municipality's security interest with respect to the underlying obligation need not be perfected as long as an executed Public Securities Association form of master repurchase agreement is on file with the counterparty prior to the date of the transaction;

[PL 1999, c. 699, Pt. D, §19 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

3. Mutual funds. In the shares of an investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, provided that the investments of the fund are limited to bonds and other direct obligations of the United States Government, as defined in section 5712, subsection 1 or repurchase agreements secured by bonds and other direct obligations of the United States Government, as defined in section 5712, subsection 1;

[PL 1997, c. 367, §1 (AMD).]

3-A. Mutual funds for trusts governed by the United States Internal Revenue Code, Section 501(c)(3). In the case of a trust fund that is governed by the United States Internal Revenue Code, Section 501 (c) (3) (1997), in the shares of any investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, as long as:

- A. The investment is approved by the municipal officers at a public meeting; and [PL 2003, c. 8, §1 (AMD).]
- B. No more than 50% of the assets of the trust are invested in mutual funds under this subsection; or [PL 2003, c. 8, §1 (AMD).]
- C. [PL 2003, c. 8, §1 (RP).]
[PL 2003, c. 8, §1 (AMD).]

4. Safekeeping and investment management agreements. The municipal officers may enter into an agreement with any financial institution with trust powers authorized to do business in the State for the safekeeping of the reserve funds, as defined in section 5801, or trust funds, as defined by section 5653, of the municipality. Services must consist of the safekeeping of the funds, collection of interest and dividends, and any other fiscal service that is normally covered in a safekeeping agreement. Investment of reserve funds or trust funds deposited under a safekeeping agreement may be managed either by the financial institution with which the funds are deposited or by an investment advisor registered with the National Association of Securities Dealers, federal Securities and Exchange Commission or other governmental agency or instrumentality with jurisdiction over investment advisors, to act in such capacity pursuant to an investment advisory agreement providing for investment management and periodic review of portfolio investments. Investment of funds on behalf of the municipality under this section is governed by the rule of prudence, according to Title 18-B, sections 802 to 807 and chapter 9. The contracting parties shall give assurance of proper safeguards that are usual to these contracts and shall furnish insurance protection satisfactory to both parties.
[PL 2003, c. 618, Pt. B, §17 (AMD); PL 2003, c. 618, Pt. B, §20 (AFF).]

SECTION HISTORY

PL 1987, c. 737, §A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §C8,10 (AMD). PL 1995, c. 206, §1 (AMD). PL 1995, c. 664, §2 (AMD). PL 1997, c. 367, §§1,2 (AMD). PL 1997, c. 429, §C35 (AMD). PL 1999, c. 699, §D19 (AMD). PL 1999, c. 699, §D30 (AFF). PL 2003, c. 8, §1 (AMD). PL 2003, c. 618, §B17 (AMD). PL 2003, c. 618, §B20 (AFF). PL 2013, c. 16, §10 (REV). PL 2015, c. 44, §9 (AMD).

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