

CHAPTER 193**FALSE BLOOD PLASMA SALE APPLICATION***S.F. 374*

AN ACT relating to the giving of false information on a blood plasma sale application to blood plasma taking personnel and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 139.33 BLOOD DONATION OR SALE — PENALTY.

A person suffering from a communicable disease dangerous to the public health who knowingly gives false information regarding the person's infected state on a blood plasma sale application to blood plasma taking personnel commits a serious misdemeanor.

Approved May 24, 1985

CHAPTER 194**DEPOSIT AND INVESTMENT OF PUBLIC FUNDS***S.F. 296*

AN ACT relating to the deposit and investment of public funds.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 452.10, Code 1985, is amended by adding the following new unnumbered paragraph following unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of the Code to the contrary, a treasurer of a city as defined in section 411.1, subsection 18, may invest any public funds of the city not currently needed for operating expenses in investments authorized in section 411.7, subsection 2, and pursuant to section 97B.7, subsection 2, paragraph "b", and section 511.8, except common, preferred, or guaranteed stock and may hold, purchase, sell, assign, transfer or dispose of any of these investments as well as the proceeds of these investments. The city council shall implement appropriate investment policies to be followed by the city treasurer and shall periodically review the performance of the investments made by the city treasurer pursuant to such policies under this paragraph.

Sec. 2. Section 453.1, Code 1985, is amended to read as follows:

453.1 DEPOSITS IN GENERAL.

1. All funds held in the hands of the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, sheriff, by the board of supervisors; for the city treasurer, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 303B, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 452.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. As used in this chapter, "depository" means a bank or any office thereof whose accounts are insured by the federal deposit insurance corporation, or a savings and loan association or any branch thereof or a savings bank or any branch thereof whose accounts are insured by the federal savings and loan insurance corporation, or a credit union insured by the national credit union administration. This subsection does not limit the definition of "public funds" contained in subsection 2.

2. As used in this chapter unless the context otherwise requires:

a. "Depository" means a bank or any office of a bank whose accounts are insured by the federal deposit insurance corporation, or a savings and loan association or a savings bank or any branch of a savings and loan association or savings bank whose accounts are insured by the federal savings and loan insurance corporation, or a credit union insured by the national credit union administration.

b. "Public funds" and "public deposits" means the moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the state or a political subdivision; any court or public body noted in subsection 1; a legal or administrative entity created pursuant to chapter 28E; an electric power agency as defined in section 28F.2; and federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter.

3. A deposit of public funds in a depository pursuant to this chapter shall be secured as follows:

a. If a depository is a savings and loan association, a savings bank, or an office of a savings and loan association or savings bank, then the public deposits in those depositories shall be secured pursuant to sections 453.16 through 453.19 and sections 453.23 and 453.24.

b. If a depository is a bank, credit union, or an office of a bank or credit union, then the public deposits in those depositories shall be secured pursuant to sections 453.22 through 453.24.

4. Ambiguities in the application of this section shall be resolved in favor of preventing the loss of public funds on deposit in a depository.

Sec. 3. Section 453.16, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. The depository institution may deposit, maintain, pledge and assign for the benefit of the public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the depository institution. The securities shall consist of any of the following:

(1) Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

(2) Public bonds or obligations of this state or a political subdivision of this state.

(3) Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

(3 4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

(5) First lien mortgages which are valued according to practices acceptable to the treasurer of state.

Sec. 4. Section 453.17, subsection 1, paragraph c, Code 1985, is amended to read as follows:

c. The securities shall be deposited with the federal reserve bank of Chicago, Illinois or the federal home loan bank of Des Moines, Iowa pursuant to a bailment agreement or a pledge custody agreement.

Sec. 5. **NEW SECTION. 453.22 REQUIRED COLLATERAL.**

1. The depository shall pledge the required collateral securities to the treasurer of state by depositing the collateral securities in restricted accounts of the treasurer of state, including but not limited to pledge-custody accounts, at a federal reserve bank, the United States central credit union, a trust department of another commercial bank or with another financial institution which has been designated by the treasurer of state that is not owned or controlled directly or indirectly by the same depository or holding company. The depository shall deliver to the treasurer of state a security agreement which provides the treasurer of state with a valid and perfected security interest in the required collateral. The market value of the required collateral shall not be less than one hundred ten percent of the total public funds placed on deposit in the depository.

2. The treasurer of state shall adopt the following rules:

a. Providing for valuation of collateral if the market value of a security is not readily determinable.

b. Establishing reporting requirements.

c. Establishing procedures for substituting different securities consistent with subsection 3.

d. Establishing administrative procedures necessary to implement this chapter and other rules as may be necessary to accomplish the purposes of this chapter.

e. Designating financial institutions eligible to be custodian of pledged collateral.

f. Establishing fee schedules to cover costs incurred for opening and closing accounts and substitution of collateral.

3. The securities used to secure public deposits shall be acceptable to the treasurer of state and shall be one or more of the following:

a. Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

b. Public bonds or obligations of this state or a political subdivision of this state.

c. Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

d. To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

e. First lien mortgages which are valued according to practices acceptable to the treasurer of state.

f. Corporate bonds rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

g. A bond of a surety company approved by the United States treasury department.

4. A depository may borrow collateral used for a pledge if the collateral is free of any liens, security interests, claims, or encumbrances.

5. The superintendent of banking shall adopt rules for uniform methods, documentation and forms for pledging required collateral securities by banks under this chapter.

Sec. 6. NEW SECTION. 453.23 PAYMENT OF LOSSES.

1. The pledging of securities by a depository pursuant to this chapter constitutes consent by the depository to the disposition of the securities in accordance with this section.

2. The depository and the security given for the public funds in its hands are liable for payment if the depository fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order or certificates of deposit, or any public funds entrusted to it if in failing to pay the depository acts contrary to the terms of an agreement between the depository and the public body treasurer.

3. If a depository is closed by its primary regulatory officials, the public body with deposits in the depository shall notify the treasurer of state of the amount of any claim within thirty days of the closing. The treasurer of state shall implement the following procedures:

a. In cooperation with the responsible regulatory officials for the depository, the treasurer shall validate the amount of public funds on deposit at the defaulting depository and the amount of deposit insurance applicable to the deposits.

b. The loss to public depositors shall be satisfied, first through any applicable deposit insurance and then through the sale of securities pledged by the defaulting depository, and then the assets of the defaulting depository. The priority of claims are those established pursuant to section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.516. To the extent permitted by federal law, in the distribution of an insolvent federally chartered depository's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for the equivalent type of state chartered depository as provided in section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.516.

c. The claim of a public depositor for purposes of this section shall be the amount of the depositor's deposits plus interest to the date the funds are distributed to the public depositor at the rate the depository institution agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

d. If the loss to public funds is not covered by insurance and the proceeds of the failed depository's assets which are liquidated within thirty days of the closing of the depository and pledged collateral, the treasurer shall provide coverage of the remaining loss as follows:

(1) If the loss was incurred in a bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other banks who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents the average of public funds deposits held by all banks during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that bank. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

(2) If the loss was incurred in a credit union, then any further payments to cover the loss will come from the state sinking fund for public deposits in credit unions. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other credit unions who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each credit union shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a credit union fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that credit union. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

(3) If the loss was incurred in a savings and loan or a savings bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in savings and loan associations and savings banks. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other savings and loans and savings banks who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all savings and loans and savings banks during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each savings and loan and savings bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a savings and loan or savings bank fails to pay its assessment when due, the treasurer shall initiate a lawsuit to collect the assessment. If a savings and loan association or a savings bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs of the action, reasonable attorney's fees based upon the amount of

time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office.

e. Any amount realized from the sale of collateral pursuant to paragraphs "c", subparagraphs (1) and (2) in excess of the amount of a depository's assessment, shall continue to be held by the treasurer, in the same interest bearing investments available for public funds, as collateral until that depository provides substitute collateral or is otherwise entitled to its release.

f. Following collection of the assessments, the state treasurer shall distribute funds to the public depositors of the failed depository according to their validated claims. If the assets available are less than the total deposits, the treasurer shall prorate the claims. A public depositor receiving payment under this section shall assign to the treasurer any interest the public depositor may have in funds that subsequently become available to depositors of the defaulting depository.

Sec. 7. NEW SECTION. 453.24 LIABILITY.

When public deposits are made in accordance with this chapter, a public body depositing public funds or its agents, employees, officers, and board members are exempt from liability for any loss resulting from the loss of a depository in the absence of negligence, malfeasance, misfeasance or nonfeasance on the part of the official. If the treasurer of state sells a depository's collateral securities, the depository shall deposit additional collateral to meet required collateral levels.

In making an assessment against depositories holding public funds as a result of a failure, the treasurer of state is exempt from any liability for loss, damage or expense to a depository which has accepted public funds.

Sec. 8. NEW SECTION. 453.25 STATE SINKING FUNDS CREATED.

There are created in the treasurer of state's office the following funds:

1. A state sinking fund for public deposits in banks.
2. A state sinking fund for public deposits in credit unions.
3. A state sinking fund for public deposits in savings and loan associations and savings banks.

The funds shall be used to receive and disperse moneys pursuant to section 453.23, subsection 3, paragraph "c".

Sec. 9. Section 524.1312, subsection 2, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

2. The payment of claims for public funds deposited pursuant to chapter 453 and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, then priority shall be determined as specified by the statutes or, in the absence of conflicting provisions, on a pro rata basis.

Sec. 10. Section 533.22, subsection 1, paragraph b, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The payment of claims for public funds deposited pursuant to chapter 453 and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, then priority shall be determined by the statutes or, in the absence of conflicting provisions, on a pro rata basis.

Sec. 11. Section 534.308, Code 1985, is amended to read as follows:
534.308 SAVINGS LIABILITY — CLASSES OF ACCOUNTS.

The savings liability of an association is not limited, but consists only of the aggregate amount of share accounts of its members, plus dividends credited to the accounts, less redemption and withdrawal payments. Except as limited by the board of directors, a member may make additions to the member's share account in the amounts and at the times the member elects. Share accounts shall be opened for cash. The members of an association are not responsible for losses which its savings liability is not sufficient to satisfy, and share accounts are not subject to assessment, nor are the holders of share accounts liable for unpaid installments on their accounts. Dividends shall be declared in accordance with this chapter.

PARAGRAPH DIVIDED. An association shall not prefer one of its share accounts over any other share account as to the right to participate in dividends as to time or amount, except that an association may classify its savings accounts according to the location of the offices at which the accounts are opened, the character, amount or duration of the accounts, or the regularity of additions to the accounts, and may agree in advance to pay an additional rate of earnings for particular classes of accounts such as a variable rate or bonus for saving larger amounts, or for maintaining savings over a longer period of time or with regularity, as determined by the board of directors. However, all classes of accounts shall be available to all qualifying members. The board of directors may also determine that earnings shall not be paid on an account which has a withdrawable value in an amount less than fifty dollars. ~~Preference~~ Except as provided in section 534.516, preference between share account members shall not be created with respect to the distribution of assets upon voluntary or involuntary liquidation, dissolution, or winding up of an association. An association shall not contract with respect to the savings liability in a manner inconsistent with this chapter.

Sec. 12. NEW SECTION. 534.516 PRIORITY OF PUBLIC FUNDS UPON DISSOLUTION.

After payment of the costs and expenses of dissolution, the first claim upon the assets of an association shall be the claims for public funds deposited pursuant to chapter 453 and claims which are given priority by applicable statute. If the assets are insufficient for payment of the claims in full, then priority shall be determined as specified by the statutes or, in the absence of conflicting provisions, on a pro rata basis.

Sec. 13. 1984 Iowa Acts, chapter 1230, section 28, is amended by striking the section and inserting the following:

SEC. 28. The treasurer of state shall transfer the state sinking fund and the moneys contained in it upon the repeal of chapter 454 to the state sinking fund for public deposits in banks.

Sec. 14. Section 453.20, Code 1985, is repealed.

Approved May 24, 1985