12C.22 Required collateral — banks.

1. A bank shall pledge to the treasurer of state the amount of collateral required under subsection 2 by depositing the collateral in restricted accounts at a financial institution that has been designated by the treasurer of state and that is not owned or controlled directly or indirectly by the bank pledging the collateral or any affiliate of the bank as defined in section 524.1101. Each bank shall execute as debtor and deliver to the treasurer of state a security agreement and such other documents, instruments, and agreements in form approved by the treasurer of state as are required to grant to the treasurer of state, as secured party in its capacity as agent for the depositors of all public funds from time to time deposited in the bank, a perfected security interest in the collateral described in the security agreement. The security agreement shall among other provisions contain all of the following provisions:

a. A security interest in the collateral is granted as collateral for the obligation of the bank to repay all uninsured public funds deposited in the bank.

b. In the event an assessment is paid by a bank to the treasurer of state pursuant to section 12C.23A, the bank is subrogated to the claim of a public funds depositor to the extent the claim is paid from funds paid by the bank.

c. The treasurer of state is appointed as agent of the bank to assert the claim on behalf of the bank as subrogee. Any amount recovered by the treasurer by reason of the claim shall be deposited in the state sinking fund for public deposits in banks.

2. The amount of the collateral required to be pledged by a bank shall at all times equal or exceed the total of the amount by which the public funds deposits in the bank exceeds the total capital of the bank. For purposes of this section, deposits that comply with section 12B.10, subsection 7, that are evidenced either by one or more certificates of deposit or one or more orders for the next business day settlement and issuance of certificates of deposit, by a federally insured bank or savings association other than the depository, or that are public funds placed in accordance with section 12B.10, subsection 7, shall not be deemed public funds deposits in the bank or savings association. For purposes of this chapter, unless the context otherwise requires, *"total capital of the bank"* means its tier one capital plus both of the following components of tier two capital:

a. Qualifying subordinated debt and redeemable preferred stock.

b. Cumulative perpetual preferred stock.

3. The amount of collateral pledged by an out-of-state bank that operates a branch in Iowa shall be calculated in accordance with the following formula:

a. Total deposits of the bank.

b. Total deposits in Iowa branches of the bank.

c. The total of paragraph *"b"* divided by the total of paragraph *"a"*, in order to establish the deposits of Iowa branches as a percentage of total deposits.

d. Total capital of the bank as defined in subsection 2.

e. The total of paragraph *"d"* multiplied by the total of paragraph *"c"*, in order to establish Iowa branch capital.

f. Total public funds deposits in the bank.

g. The excess of the total of paragraph *"f"* over the total of paragraph *"e"*, if any.

4. The value of the collateral shall be its market value.

5. The treasurer of state shall adopt rules pursuant to chapter 17A to administer this section, including rules to do the following:

a. Designate not less than four financial institutions that may be custodians of collateral pledged under this chapter and establish regulations for qualification and compliance by the custodians and remedies and sanctions for noncompliance by the custodians.

b. Establish requirements for reporting to the treasurer of state by a financial institution of the amount and value of collateral held by the financial institution as custodian of collateral for the uninsured public funds on deposit in a bank.

c. Establish procedures for the valuation of collateral that does not have a readily ascertainable market value.

d. Establish procedures for adding collateral, releasing collateral, and substituting different collateral for collateral pledged under this section.

e. Establish procedures to determine the amount of the uninsured public funds of each

bank or branch of an out-of-state bank as of the date of closing of a closed bank and the amount of the assessment to be made upon each bank.

f. Establish additional procedures necessary to administer this chapter and other rules as may be necessary to accomplish the purposes of this chapter.

g. Provide forms and procedures for compliance with this chapter, including electronic compliance.

h. Establish amounts and procedures for payment of fees to cover the costs of administration of this chapter.

6. The collateral used to secure public deposits shall be in one or more of the following forms acceptable to the treasurer of state:

a. Investment securities and shares in which a bank is permitted to invest under section 524.901, subsections 1, 2, 3, and 4.

b. Investment securities, as defined in section 524.901, subsection 1, paragraph *"a"*, representing general obligations of a state or a political subdivision of a state that is geographically contiguous with the state, provided that such investment securities are rated within the four highest grades according to a reputable rating service or represent unrated issues of equivalent value.

c. Investment securities, as defined in section 524.901, subsection 1, paragraph *"a"*, representing general obligations of a state or a political subdivision of a state that is not contiguous with the state, provided that such investment securities are rated within the two highest grades according to a reputable rating service.

d. 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, including government-sponsored enterprises of the United States of America.

e. Private insurance policies or bonds written by companies approved by the superintendent.

f. Certificates of deposit issued by a federal deposit insurance corporation insured bank, the payment of which is fully insured by the federal deposit insurance corporation both as to principal and accrued interest, and that have been assigned a committee on uniform security identification procedures number and deposited for the account of the public funds depository bank at the depository trust company.

7. A bank may borrow collateral to be pledged under subsection 2 if the collateral is free of any liens, security interests, claims, or encumbrances.

2002 Acts, ch 1096, §8, 17; 2004 Acts, ch 1080, §1 – 3, 7; 2006 Acts, ch 1015, §1; 2006 Acts, ch 1023, §5; 2012 Acts, ch 1051, §2, 3

Referred to in §12C.23A, 12C.27