

CHAPTER 14
DEPOSIT AND SECURITY OF PUBLIC FUNDS IN CREDIT UNIONS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

781—14.1(12C) Scope and transition. Iowa Code chapter 12C grants authority to the treasurer of state to establish administrative rules and procedures to implement a system for securing deposits of public funds in banks, savings and loans and credit unions. This chapter contains rules which shall apply to the system for securing deposits of public funds in credit unions. Rules pertaining to securing public funds in savings and loans or federal savings banks are contained in 781—Chapter 3. Rules pertaining to the securing of public funds in banks are contained in 781—Chapter 13.

781—14.2(12C) Definitions. As used in this chapter:

“Approved custodian” means the Federal Home Loan Bank of Des Moines, Iowa, or the U.S. Central Credit Union.

“Credit union” means a credit union as defined in Iowa Code section 12C.1(2) *“e.”*

“Eligible collateral” means any of the securities specified in Iowa Code section 12C.16(1) *“b”* provided that the securities are acceptable to the public unit and to the approved custodian.

“Letter of credit” means an irrevocable, nontransferable, standby letter of credit issued directly to the public unit by the U.S. Central Credit Union or the Federal Home Loan Bank of Des Moines, Iowa.

“Market value” means the value of a pledged security calculated by using the average of the closing bid and ask price from a nationally recognized pricing source including, but not limited to, the Wall Street Journal, Bloomberg Financial Markets, Telerate, Reuter’s, or a nationally recognized broker dealer.

“Pledged collateral” or *“pledged securities”* means eligible collateral pledged by a credit union to a public unit to secure uninsured public deposits.

“Public units.” The state of Iowa, its cities, counties, school districts and all other political subdivisions of the state are public units under this chapter including but not limited to the following entities:

1. Cities.
2. Transit authorities.
3. Municipal utilities, including jointly owned.
4. Public libraries, city and regional.
5. Municipal housing programs.
6. Solid waste agencies.
7. Waterworks.
8. City cemeteries.
9. County offices including treasurers, recorders, clerks of court, sheriffs and auditors.
10. Townships.
11. County fair boards.
12. Regional planning agencies.
13. County care facilities.
14. County hospitals.
15. County conservation boards.
16. Sanitary districts.
17. Treasurer of state.
18. Iowa beer and liquor control department.
19. Iowa department of transportation.
20. Judicial district department of correctional services.
21. Iowa finance authority.
22. Iowa family farm development authority.
23. Iowa railway finance authority.
24. State board of regents.
25. State fair board.

26. State commerce commission.
27. State racing commission.
28. Iowa college aid commission.
29. Iowa higher education loan authority.
30. School districts.
31. Area education agencies.
32. Community action programs.
33. Community colleges.

Federal agencies, or political subdivisions thereof, are not public units under this chapter. Cooperatives, police and fire pension funds deposited for the benefit of the beneficiaries and fully covered by federal insurance, and bond sinking funds deposited pursuant to a bond covenant and which are fully covered by federal insurance are not public units.

"Treasurer" as used in this chapter shall mean the treasurer of the state of Iowa.

"Uninsured public funds" or *"uninsured public deposits"* means the funds of a public unit deposited in a credit union which are not federally insured, together with any accrued interest thereon.

781—14.3(12C) Forms. Forms utilized by credit unions in connection with the operation of this chapter shall be approved by the treasurer.

781—14.4(12C) Uninsured public deposits in credit unions. Uninsured public deposits in a credit union shall be secured by a letter of credit and a deposit agreement between the public unit and the credit union. (The credit union will only be allowed to aggregate funds deposited by the same public unit. Prior to accepting an uninsured public deposit, a credit union must secure the deposit according to requirements contained in this chapter.)

781—14.5(12C) Securing uninsured public deposits in credit unions using a letter of credit.

14.5(1) A credit union shall secure the uninsured public time deposits of a public unit with a letter of credit as defined in these rules and Iowa Code section 12C.16.

14.5(2) The public unit shall have in its possession, prior to or simultaneously at the time of deposit of uninsured public deposits, a letter of credit issued by the U.S. Central Credit Union or by the Federal Home Loan Bank of Des Moines, Iowa, to the public unit in an amount that is not less than 110 percent of the amount of public funds deposits to be secured thereby. The letter of credit shall have an expiration date which is at least ten business days later than the maturity date of the time deposit.

14.5(3) The public unit shall keep the letter of credit in a vault or a safe-deposit box in a financial institution other than the credit union until such time as the letter of credit expires or is presented for payment to the U.S. Central Credit Union or to the Federal Home Loan Bank of Des Moines, Iowa.

14.5(4) In the event that the public unit decides to extend the maturity of its deposit after the issuance of the letter of credit, the public unit shall obtain a new letter of credit. The new letter of credit must be obtained by the public unit prior to the original maturity date of the deposit.

14.5(5) If the credit rating of the U.S. Central Credit Union or the Federal Home Loan Bank of Des Moines, Iowa is lowered to a rating not within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to Iowa Code chapter 17A, then the U.S. Central Credit Union or the Federal Home Loan Bank of Des Moines, Iowa, shall immediately notify each credit union which is securing uninsured public deposits by use of a letter of credit issued by the U.S. Central Credit Union or the Federal Home Loan Bank of Des Moines, Iowa, and the treasurer. Each credit union, upon notification of the U.S. Central Credit Union or the Federal Home Loan Bank of Des Moines, Iowa, downgrade, shall immediately return the deposits, with interest accrued to that date, to the public units which are secured by a letter of credit.

781—14.6(12C) Securing public funds in a credit union with a pledge of eligible collateral.

14.6(1) Prior to accepting an uninsured public deposit, a credit union shall secure the uninsured public deposit in accordance with Iowa Code chapter 12C and these rules. The credit union must:

- a.* Enter into a Security and Custodial Agreement for the Deposit of Public Funds in credit unions with the public unit and the approved custodian.
- b.* Enter into a deposit agreement with the public unit.
- c.* Deliver to the approved custodian eligible collateral with a market value of not less than 110 percent of the uninsured public deposits.

14.6(2) A credit union shall grant a security interest to the public unit in all pledged securities to secure the uninsured public funds of that public unit. The credit union shall take all steps necessary to ensure that the public unit has a valid, perfected, enforceable, first priority security interest in the pledged collateral. The credit union shall enter into a security agreement with the public unit and the approved custodian, and shall transfer pledged collateral to the approved custodian which shall hold the pledged collateral in safekeeping for the public unit.

14.6(3) The credit union shall maintain eligible collateral with the approved custodian with a total market value of not less than 110 percent of a public unit's total deposits which are not otherwise secured by a letter of credit.

14.6(4) A credit union shall promptly forward to the approved custodian payment for fees associated with the approved custodian's services as safekeeping agent for the public unit upon receipt of a statement from the approved custodian.

14.6(5) A credit union shall not attempt to withdraw pledged collateral from the approved custodian if such action will cause the total market value of pledged collateral to fall below 110 percent of a public unit's total uninsured deposits which are not otherwise secured by a letter of credit.

14.6(6) A credit union shall notify the public unit and the approved custodian in writing and 30 days prior to any change in its name or home office location.

14.6(7) A credit union shall receive written approval from the public unit for the withdrawal or substitution of any pledged collateral by completing the Certification and Approval Form for the Withdrawal, Substitution or Addition of Pledged Securities and delivering it to the public unit with the request for the public unit's written approval to withdraw or substitute pledged securities. The public unit, if it approves of the withdrawal or substitution of pledged securities, shall forward the completed form to the approved custodian.

14.6(8) Any request by a credit union to withdraw pledged securities or to substitute securities which will result in a total market value of less than 110 percent of the public unit's public deposits, which are not otherwise secured by a letter of credit, shall be denied by the public unit.

14.6(9) The approved custodian shall comply with a credit union's request for the withdrawal, substitution or addition of pledged collateral when it receives a completed Certification and Approval Form for the Withdrawal, Substitution or Addition of Pledged Securities containing the authorized signatures of the public unit and the credit union.

14.6(10) The approved custodian will issue a Joint Receipt of Custody to the public unit and to the credit union evidencing the pledge of any securities under the security agreement between the public unit and the credit union. In the event of substitution or exchange of securities, the approved custodian shall forward by mail to the public unit a Joint Receipt of Custody.

14.6(11) If a pledged security matures, then the principal amount of the cash must be held in trust by the approved custodian for the public unit until the public unit has determined that releasing the cash will not cause the total market value of all pledged securities by the credit union to fall below the 110 percent requirement.

14.6(12) The securities used to secure the uninsured public deposits in credit unions shall be acceptable to the public unit and the approved custodian and shall be one or more of those securities specified in rule 14.2(12C) of this chapter under the definition of "eligible collateral."

14.6(13) The public unit or the approved custodian has the right to refuse any security offered as collateral, notwithstanding its inclusion in Iowa Code section 12C.16(1)"b" or these rules, for reasons relating to difficulty of valuation, uncertainty as to the ability to sell a security in the event of default, questions as to ownership, or impossibility of creating a valid and perfected security interest in favor of the public unit.

14.6(14) The acceptance of a security as collateral by the approved custodian or the public unit does not prevent the public unit from requiring substitution of said security at a later time as a result of statutory or regulatory amendment or other changes which affect the valuation, marketability, liquidity, ownership, or perfectibility of the security or the enforceability of the public unit's security interest.

14.6(15) Securities which are issued in certificated or definitive form are eligible collateral only if they are registered in the name of the public unit's approved custodian or are in otherwise negotiable form acceptable to the public unit.

14.6(16) No security which requires any additional endorsement, assignment or power of attorney for liquidation is eligible collateral.

781—14.7(12C) Duties of the approved custodian.

14.7(1) An approved custodian shall enter into a Security and Custodial Agreement for the Deposit of Public Funds in credit unions with the public unit and the credit union.

14.7(2) An approved custodian shall accept only collateral which is eligible to be pledged under these rules.

14.7(3) An approved custodian shall segregate all collateral, maintaining open, notorious, continuous, active and exclusive possession of the collateral for the benefit of the public unit.

14.7(4) An approved custodian shall permit the withdrawal or substitution or addition of pledged securities only upon receipt of a Certification and Approval Form for the Withdrawal, Substitution or Addition of Pledged Securities, which contains the signatures of authorized persons representing the credit union and the public unit. Receipt of the authorization by facsimile transmission shall be adequate documentation to allow the approved custodian to release or accept pledged securities. The approved custodian shall implement procedures for documenting signatures of authorized persons of a credit union and the public unit.

14.7(5) An approved custodian shall issue a Joint Receipt of Custody to the public unit and the credit union each time a credit union substitutes new securities for pledged securities or a credit union pledges additional pledged securities.

14.7(6) An approved custodian shall establish a fee schedule for its services. Any and all such fees shall be the responsibility of, and be paid by, the respective credit union.

14.7(7) In the event that the public unit notifies an approved custodian of the default of a credit union, it shall thereafter act only upon the public unit's instructions with regard to any pledged securities.

14.7(8) An approved custodian shall, no later than the twentieth day of each month, provide a written report to those public units for which it serves as approved custodian. The following items shall be provided in the report.

a. The name of the credit union which has pledged securities to secure the uninsured public funds of the public unit.

b. An inventory of all pledged securities as of the last day of the preceding month which provides a description of the pledged securities and the par amount, maturity date, and market value of each.

c. The total par value and market value of all pledged securities as of the last day of the preceding month.

14.7(9) An approved custodian shall determine the market values of pledged securities as of the last day of the month for purposes of reporting to the public unit.

781—14.8(12C) Termination of credit union's federal insurance. In the event that a credit union's applicable federal deposit insurance is suspended or terminated, the credit union must notify the public unit immediately and shall immediately return all deposits to the public unit with accrued interest.

781—14.9(12C) Sale or merger of a credit union. The responsibility of a credit union to secure public deposits by a letter of credit shall not be altered by any merger, takeover or acquisition, except to the extent that such duty is assumed by the successor entity. A credit union shall immediately notify the public unit, in writing, of its merger, takeover or acquisition by a successor entity.

781—14.10(12C) Procedure upon default.

14.10(1) The acceptance of public funds by a credit union constitutes consent by the credit union to assessments to cover losses of public funds in other credit unions by the treasurer in accordance with Iowa Code section 12C.23 and the rules contained in this chapter.

14.10(2) The treasurer, upon notification from a public unit that a public unit has not been completely repaid its principal and interest for a deposit and that funds are not available from a letter of credit securing such deposit, shall assess all credit unions in the state with public deposits as provided in Iowa Code section 12C.23.

14.10(3) A credit union and any security given for the public funds in its possession are liable for payment if the credit union 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 credit union acts contrary to the terms of an agreement between the credit union and the public body treasurer or, if the credit union fails to pay an assessment by the treasurer of state, when due.

These rules are intended to implement Iowa Code chapter 12C.

[Filed emergency 9/1/92—published 9/30/92, effective 9/1/92]

[Filed emergency 1/29/93—published 2/17/93, effective 2/15/93]

[Filed 1/23/98, Notice 12/17/97—published 2/11/98, effective 3/18/98]