

**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.