

781—13.13(12C) Procedures upon default or closing of a bank.

13.13(1) The acceptance of public funds by a bank constitutes agreement by the bank to pledge collateral as required by Iowa Code section 12C.22, consent by the bank to the disposition of the collateral, consent by the bank to assessments by the treasurer, and agreement by the bank to provide accurate information and to otherwise comply with the requirements of Iowa Code chapter 12C and this chapter.

13.13(2) The treasurer may liquidate the eligible collateral pledged by a pledging bank, including, without limitation, drawing on any Letter of Credit pledged as collateral to the treasurer by a pledging bank, if the treasurer verifies that any of the following have occurred:

a. A public unit notifies the treasurer, or the treasurer determines that said pledging bank has failed to pay a check, draft or warrant drawn by a public officer.

b. A pledging bank has acted contrary to or otherwise breached a term or condition of any agreement which it has entered into with a public unit, the treasurer or an approved custodian.

c. The pledging bank has failed to pay an assessment ordered by the treasurer as required in Iowa Code chapter 12C, or has, as determined by the treasurer, otherwise violated these rules or Iowa Code chapter 12C.

13.13(3) In the event that a pledging bank is closed by any state or federal regulatory officials, the treasurer may proceed to liquidate the collateral pledged by the closed pledging bank, including drawing on any Letters of Credit pledged to the treasurer by the closed pledging bank, notwithstanding the purchase and assumption of the closed pledging bank, and without the necessity of notice to the closed pledging bank, a successor receiver or an assuming entity. When a pledging bank accepts public funds, the pledging bank acknowledges and agrees that in the event of its closure or default, any eligible collateral is subject to unconditional sale or liquidation by the treasurer, with this condition and covenant inuring to and binding any receiver or successor in interest to the closed pledging bank.

13.13(4) In the event the deposits of a closed bank are not purchased and assumed by another bank, the public units with uninsured deposits in the pledging bank shall notify the treasurer of the amount of any claim within 30 days of the closing. The treasurer shall implement the following procedures:

a. The treasurer shall take such steps as are necessary to ensure that the approved custodian acts only upon the treasurer's instructions with regard to any pledged collateral.

b. The treasurer shall provide each public unit which has contacted the treasurer with a Statement of Accounts, a Public Depositor Claim Form, and a Release by Public Depositor. Included with these forms shall be instructions for completing and filing them and the estimated date when the treasurer will pay claims.

c. It shall be the duty and responsibility of each public unit with a potential claim to complete the above forms in cooperation with regulatory officials handling the closing of the pledging bank and to receive the signed confirmation of such officials as to the amount of the claim. The Statement of Accounts shall include the balances of all accounts on the date of closing, any amounts reimbursed by federal insurance coverage, and all interest accrued, at the applicable rate, on unreimbursed balances to the date of payment of claims and the amount of uninsured public funds on deposit. The Statement of Accounts and the Public Depositor Claim Form must be returned to the treasurer within 30 days of the date of the closing of the bank or from the date of receipt from the treasurer.

d. In cooperation with the responsible regulatory officials for the closed bank and the receipt of all Statements of Accounts and Public Depositor Claim Forms, the treasurer shall validate the amount of public funds deposit insurance coverage applicable to the public funds deposits of the closed bank. The treasurer may request that warrants be drawn on the state sinking fund for public funds deposits in banks to reimburse each public unit that has a verified claim.

e. Upon the specified date of payment of claims, warrants for the amounts of verified claims shall be delivered to the public units to the extent funds in the sinking fund are sufficient to cover public funds depositors' claims and expenses of the treasurer including, but not limited to, legal and administrative expenses. The public unit shall sign and deliver the Release by Public Depositor to the treasurer prior to receiving a warrant.

13.13(5) If the applicable deposit insurance, the liquidation of pledged collateral, or the funds received from drawing on any Letters of Credit, and the assets of the bank which are liquidated within 30 days of the closing of the bank are not sufficient to satisfy the loss to public units, then the treasurer shall obtain the additional amount needed to satisfy all remaining claims from the state sinking fund for public deposits in banks to the extent funds in the sinking fund are sufficient to cover public funds depositors' claims and expenses of the treasurer including, but not limited to, legal and administrative expenses.

13.13(6) If the funds in the sinking fund for public deposits in banks are inadequate to cover the remaining loss, the treasurer shall make assessments against all remaining banks whose public funds deposits exceed federal deposit insurance coverage to satisfy the remaining loss. The assessment against each bank shall be calculated pursuant to Iowa Code chapter 12C and shall be paid by each bank to the treasurer within three business days of the bank's receipt of the treasurer's written assessment notice. If a pledging bank refuses or fails to pay its assessment when due, the treasurer shall satisfy the assessment in whole or in part by liquidating the collateral pledged by any pledging bank or drawing on any Letters of Credit which were pledged as collateral by that pledging bank.

13.13(7) If a pledging bank refuses or fails to pay any assessment and the liquidation of collateral pledged by that pledging bank or the funds received from drawing upon any Letters of Credit pledged as collateral by the pledging bank are not sufficient to satisfy the assessment, the treasurer shall make additional assessments as necessary against other banks which hold uninsured public funds deposits to satisfy any unpaid assessment. Additional assessments shall be determined, collected and satisfied in the same manner as the first assessment.