

House File 2592 - Introduced

HOUSE FILE 2592
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HSB 633)

(COMPANION TO SF 2286 BY
COMMITTEE ON STATE GOVERNMENT)

A BILL FOR

1 An Act relating to the investment of public funds, and making
2 penalties applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 12B.10, subsection 5, paragraph a,
2 subparagraph (7), subparagraph division (a), unnumbered paragraph
3 1, Code 2026, is amended to read as follows:

4 A joint investment trust organized pursuant to chapter 28E
5 that is in compliance with section 12B.10D, provided that the
6 joint investment trust shall be one of the following:

7 Sec. 2. Section 12B.10, subsection 7, unnumbered paragraph 1,
8 Code 2026, is amended to read as follows:

9 Notwithstanding sections 12C.2, 12C.4, and 12C.6, and any
10 other provision of law relating to the deposits of public funds,
11 if public funds are deposited in a depository, as defined in
12 section 12C.1, any uninsured portion of the public funds invested
13 through the depository may be invested in insured deposits or
14 certificates of deposit arranged by the depository that are
15 placed in or issued by one or more federally insured banks,
16 credit unions, or savings associations regardless of location for
17 the account of the public funds depositor if all of the following
18 requirements are satisfied:

19 Sec. 3. NEW SECTION. **12B.10D Regulation of joint investment**
20 **trusts.**

21 1. A political subdivision of the state may invest up to
22 twenty-five percent of the aggregate amount of its public funds
23 in a joint investment trust authorized under section 12B.10,
24 subsection 5, paragraph "a", subparagraph (7). The twenty-five
25 percent limit must be calculated based on the average of all of
26 the political subdivision's public funds over the previous two
27 fiscal years.

28 2. A joint investment trust shall not directly or indirectly
29 pay an individual, association, or entity not providing direct
30 investment management, administrative, custodial, or other bona
31 fide operational services to the trust.

32 3. Before depositing or investing public funds with a joint
33 investment trust organized under chapter 28E, the governing
34 body of the political subdivision shall execute a written
35 acknowledgment stating all of the following:

1 a. That the participant understands and affirms that funds
2 invested in the joint investment trust may not be deposits
3 insured by the federal deposit insurance corporation, national
4 credit union administration, or any other government insurance
5 program comparable to those offered by a local financial
6 institution.

7 b. That the participant understands and affirms that such
8 funds are not collateralized or guaranteed by the state, a
9 political subdivision, or any other entity.

10 c. That the participant acknowledges that the safety of such
11 funds depends on the investment performance and management of the
12 joint investment trust and is subject to loss of principal.

13 4. A violation of this section is a breach of fiduciary duty
14 and may subject the trust, the public entity, and the public
15 entity's officers and elected officials to criminal and civil
16 remedies, including administrative remedies, applicable for a
17 violation of section 12B.10, including the penalties provided by
18 sections 12B.14 and 12B.15.

19 Sec. 4. Section 12C.17, subsection 1, paragraph c, Code 2026,
20 is amended to read as follows:

21 c. The securities shall be deposited with the federal reserve
22 bank, the federal home loan bank of Des Moines, Iowa, a
23 ~~corporate central credit union organized under section 533.213 a~~
24 securities broker-dealer registered as a member of the financial
25 industry regulatory authority, or a corporate credit union whose
26 activities are subject to regulation by the national credit
27 union administration pursuant to a bailment agreement or a pledge
28 custody agreement.

29 Sec. 5. Section 12C.17, subsection 4, Code 2026, is amended
30 to read as follows:

31 4. Upon written request from the appropriate public officer
32 but not less than monthly, the federal reserve bank, the federal
33 home loan bank of Des Moines, Iowa, ~~a corporate central credit~~
34 ~~union organized under section 533.213 a~~ securities broker-dealer
35 registered as a member of the financial industry regulatory

1 authority, or a corporate credit union whose activities are
2 subject to regulation by the national credit union administration
3 shall report a description, the par value, and the market value
4 of any pledged collateral by a credit union.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 This bill relates to the investment of public funds.

9 The bill allows the uninsured portion of any public funds
10 invested through a depository to be invested in insured deposits
11 or certificates of deposit that are placed in or issued by a
12 credit union.

13 The bill provides that a political subdivision may invest up
14 to 25 percent of its public funds in a joint investment trust
15 authorized under Code section 12B.10(5). A joint investment
16 trust shall not pay an individual, association, or entity that
17 does not provide direct investment management, administrative,
18 custodial, or other bona fide operational services to the
19 trust. Before depositing or investing public funds with a
20 joint investment trust, the governing body of the political
21 subdivision must execute a written acknowledgment relating to
22 the insurance and safety of the funds. A violation of these
23 provisions is a breach of fiduciary duty and may subject the
24 trust, the public entity, and the public entity's officers and
25 elected officials to criminal and civil remedies, including
26 administrative remedies, and may result in a variety of criminal
27 penalties for a fraudulent practice (Code chapter 714), a simple
28 misdemeanor for official delinquency, and liability for any
29 fine imposed and any damages sustained by a person. A simple
30 misdemeanor is punishable by confinement for no more than 30 days
31 and a fine of at least \$105 but not more than \$855.

32 The bill removes corporate central credit unions organized
33 under Code section 533.213 from the list of entities with which
34 a credit union receiving public funds may deposit securities
35 and allows a credit union which receives public funds to pledge

1 securities owned by the credit union by depositing the securities
2 with a securities broker-dealer registered as a member of the
3 financial industry regulatory authority pursuant to a bailment
4 agreement or a pledge custody agreement. Such a securities
5 broker-dealer must report a description, the par value, and the
6 market value of any pledged collateral by a credit union at
7 least monthly and upon written request of an appropriate public
8 officer.

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