34.01 Definitions. In this chapter:

(1) “Governing board” means the investment board in the case of the state, the housing and economic development authority if the board elects to be bound by all or part of this chapter under s. 234.32 (2), the county board or committee designated by the county board to designate public depositories in the case of a county, the city council in the case of a city, the village board in the case of a village, the town board in the case of a town, the school board in the case of a school district, the board of control in the case of a cooperative educational service agency, the clerk of court in the case of any court in this state, and any other commission, committee, board or officer of any governmental subdivision of the state not mentioned in this subsection.

(2) “Loss” means any of the following:

(a) Any loss of public moneys, which have been deposited in a designated public depository in accordance with this chapter, resulting from the failure of any public depository to repay to any public depositor the full amount of its deposit because the office of credit unions, administrator of federal credit unions, U.S. comptroller of the currency, federal deposit insurance corporation, or division of banking has taken possession of the public depository or because the public depository has, with the consent and approval of the office of credit unions, administrator of federal credit unions, federal deposit insurance corporation, or division of banking, adopted a stabilization and readjustment plan or has sold all or all of its assets to another credit union, bank, savings bank, or savings and loan association which has agreed to pay a part or all of the deposit liability on a deferred payment basis or because the depository is prevented from paying out old deposits because of rules of the office of credit unions, administrator of federal credit unions, U.S. comptroller of the currency, federal deposit insurance corporation, or division of banking.

(b) With respect to public moneys deposited in the local government pooled-investment fund, in addition to a loss as described in par. (a), the public depositor’s proportionate share of any loss of principal invested or reinvested by the investment board under s. 25.50 (6).

(3) “Public deposit” means public moneys deposited by a public depositor in a public depository, including private moneys held in trust by a public officer.

(4) “Public depositor” means the state or any county, city, village, town, drainage district, power district, school district, cooperative educational service agency, school district, or any commission, committee, board or officer of any governmental subdivision of the state or any court of this state, a corporation organized under s. 39.33 or the housing and economic development authority if the authority elects to be bound by all or part of this chapter under s. 234.32 (2), which deposits any moneys in a public depository.

(5) “Public depository” means a federal or state credit union, federal or state savings and loan association, state bank, savings and trust company, federal or state savings bank, or national bank in this state which receives or holds any public deposits or the local government pooled-investment fund.

(6) “Public moneys” means all moneys coming into the hands of the treasurer of a public depositor by virtue of his or her office without regard to the ownership of the moneys.

(7) “Treasurer” means any duly elected, appointed or acting official or employee of a public depository whose duties require that he or she receive and account for public moneys.

34.02 Exemption. This chapter shall not apply to trustees and fiscal agents appointed under s. 18.10 (8) or 67.10 (2).

34.03 Powers of the division of banking. The division of banking may do any of the following:

(1) Make and enforce rules necessary for the implementation of this chapter.

(2) Require any public depository or the trustees of segregated trusts created by banks for the benefit of public depositors to furnish information upon request. Any public depository which refuses or neglects to give any information so requested shall be excluded from the right to receive public deposits. Information obtained under this subsection may not be disclosed by this chapter or division of banking unless disclosed as provided in s. 220.06.

(3) Take such action as the division deems necessary or appropriate for the protection, collection, compromise or settlement of any claim against or in favor of the appropriation under s. 20.144 (1) (a).

(4) Exercise all powers reasonably necessary and proper to the full and complete performance of the division’s functions under this chapter, including but not limited to ordinary powers granted corporations.

34.045 Powers of the division of banking. The division of banking, unless disclosed as provided in s. 301.009, is included in the definition of “public depositor” in sub. (4), but is not listed in current sub. (6).

34.08 Payment of losses.

34.09 Financial institutions eligible as public depositories.

34.095 Certain foreign financial institutions ineligible as public depositories.

34.10 Reorganization and stabilization of financial institutions.

34.11 Penalties.
Fixing the official date on which losses shall be deemed to have been incurred. With respect to this power, see proposed s. 34.08 and the NOTE following that treatment.

The section also provides that information obtained from public depositories by the commissioner of banking may not be disclosed by the commissioner unless the information is disclosed as provided in s. 220.06. That section of the statutes provides, in part, that the commissioner of banking, officers and employees of the office of the commissioner and members and employees of the banking review board are bound by oath to keep secret all facts and information obtained in the course of examinations except in specified circumstances. [85 Act 25]

### 34.045 Secretary of administration. (1)

(a) Establish procedures for the selection of public depositories by state agencies and departments and procedures for contracting for the reasonable and necessary depository services by state agencies and departments and may direct the combination or division of services so as to provide convenient and cost efficient services.

(b) Establish procedures by which state agencies and departments pay for services through compensating balances or fees, or a combination of both methods.

(c) Maintain compensating balances, or direct the investment board to pay bank service costs as allocated by the secretary of administration under s. 25.19 (3) directly from the income account of the state investment fund, or by a combination of such methods.

(d) Require utilization of competitive bidding under s. 16.75 in the designation of all state public depositories and in contracting for depository services.

(2) The secretary of administration or his or her designee shall require any state department or agency to submit to him or her for prior review, elimination, consolidation, renegotiation, or confirmation any existing service contract or service proposed by the department or agency.

### 34.046 Liability of treasurers. (1) 

Notwithstanding any other provision of law, a treasurer who deposits public moneys in compliance with s. 34.05 is thereby relieved of liability for any loss of public moneys which results from the failure of any depository to repay the public depository the full amount of its deposits thus causing a loss as defined in s. 34.01 (2).

History: 1983 a. 189 s. 329 (21); 1985 a. 25; 2011 a. 204.
may be required of or given by any public depository for any public deposits that exceed the amount of deposit insurance provided by an agency of the United States and the coverage provided under s. 34.08 (2).


Legislative Council Note, 1985: This section is amended to provide that a surety bond or other security may be required of or given by a public depository for any public deposit for the amount of deposits that exceeds the deposit insurance for each account and the $400,000 amount for all accounts available under s. 34.08 (2). The amendment removes the prohibition on the use of a bond or other security by a public depository which is seeking public deposits. [85 Act 25]

34.08 Payment of losses. (1) Except as provided in sub. (2), the appropriation in s. 20.144 (a) shall be used to repay public depositors for losses until the appropriation is exhausted. (2) Payments under sub. (1) shall be made in the order in which satisfactory proofs of loss are received by the division of banking. The payment made to any public depository for all losses of the public depositor in any individual public depository may not exceed $400,000 above the amount of deposit insurance provided by an agency of the United States at the public depository that experienced the loss. Upon a satisfactory proof of loss, the division of banking shall direct the department of administration to draw its warrant payable from the appropriation under s. 20.144 (a) and the secretary of administration shall pay the warrant under sub. (4) in favor of the public depositor that has submitted the proof of loss.

(3) Losses become fixed as of the date of loss. A public depositor experiencing a loss shall, within 60 days of the loss, assign its interest in the deposit, to the extent of the amount paid under this section, to the division of banking. Upon failure to make the assignment, the public depositor shall forfeit its right to payment under this section. Any recovery made by the division of banking under the assignment shall be repaid to the appropriation under s. 20.144 (1) (a). History: 1985 a. 25; 1995 a. 27; 2003 a. 33; 2005 a. 134.

34.09 Financial institutions eligible as public depositaries. Every federal or state credit union, state bank, federal or state savings and loan association, savings and trust companies, federal or state savings bank and every national bank may be designated as a public depository and may receive and hold public deposits, subject to this chapter, if the financial institution has a branch or main office located in this state, complies with this chapter with respect to public deposits and accepts payments made by the state under s. 16.412. The division of banking has the same powers and duties with regard to making and continuing public deposits in national banks, federal and state credit unions, federal and state savings banks and federal and state savings and loan associations as the powers and duties exercised and performed by the division of banking with regard to public deposits in state banks. History: 1975 c. 180; 1983 a. 368; 1991 a. 221; 1995 a. 27; 1999 a. 9; 2003 a. 33; 2005 a. 134.

34.10 Reorganization and stabilization of financial institutions. Whenever the office of credit unions, administrator of federal credit unions, U.S. comptroller of the currency, federal deposit insurance corporation, or division of banking has taken charge of a credit union, bank, savings bank, or savings and loan association with a view of restoring its solvency, pursuant to law, or with a view of stabilizing and readjusting the structure of any national or state credit union, bank, savings bank, or savings and loan association located in this state, and has approved a reorganization plan or a stabilization and readjustment agreement entered into between the credit union, bank, savings bank, or savings and loan association and depositors and unsecured creditors, or when the office of credit unions, administrator of federal credit unions, U.S. comptroller of the currency, federal deposit insurance corporation, or division of banking proposes to sell its assets to another credit union, bank, savings bank, or savings and loan association which agrees to assume a part or all of the deposit liability of such selling credit union, bank, savings bank, or savings and loan association and to pay the same on a deferred payment basis, the governing board of the public depository may, on the approval of the division of banking, join in the execution of any reorganization plan or any stabilization and readjustment agreement, or any depositor’s agreement relative to a proposed sale of assets if, in its judgment and that of the division of banking, the reorganization plan or stabilization and readjustment agreement or proposed sale of assets is in the best interest of all persons concerned. The joining in any reorganization plan, or any stabilization and readjustment agreement, or any proposed sale of assets which meets the approval of the division of banking does not waive any rights under this chapter. History: 1975 c. 180; 1983 a. 368; 1991 a. 221; 1995 a. 27; 1999 a. 9; 2003 a. 33; 2005 a. 134.

34.105 Withdrawal of public funds. (1) Withdrawal or disbursement by a treasurer of any county, city, village, town, school district or cooperative educational service agency of moneys deposited in a public depository shall be made as provided by s. 66.0607 (1) to (5). “Treasurer” as used in this subsection means only the elected, appointed or acting official treasurer of a county, city, village, town, school district or cooperative educational service agency and does not include all of the other persons within the definition of that term in s. 34.01 (7). This section does not affect s. 67.10 (2). (2) Withdrawal or disbursement of moneys deposited in a public depository by treasurers as defined in s. 34.01 (7), except those mentioned in sub. (1) shall be as provided in s. 66.0607 (6). History: 1979 c. 301; 1999 a. 150 s. 672.

Also, in s. 34.09 instead of providing that every financial institution in Wisconsin which “complies in all respects as to public deposits with this chapter and which accepts payments made by the state under s. 16.412”, the phrase “complies in all respects as to public deposits with this chapter and will accept payments made by the state under s. 16.412” has been substituted. The significance of the change is that financial institutions need not actually accept payments by the state under s. 16.412, nor are they to be eligible as public depositaries. Instead, financial institutions must accept these payments only if made, in order to be eligible as public depositaries. [85 Act 25]
34.11 **Penalties.** Any person who willfully violates ss. 34.01 to 34.10, or any orders or rules promulgated by the division of banking under said sections, shall for each such offense be fined not more than $500 or imprisoned not more than 6 months, or both.

*History: 1995 a. 27.*