CHAPTER 34
PUBLIC DEPOSITS

34.01 Definitions. In this chapter:

(1) “Governing board” means the investment board in the case of the state, the housing and economic development agency if the authority 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 a part 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 the 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's 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, or the division of banking unless disclosed as provided in s. 34.045.

(5) “Public depository” means a federal or state credit union, a federal or state savings and loan association, a state bank, savings and loan company, or a 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 depository 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.

History:
1975 c. 164.
1979 c. 330, 385.
1981 c. 163.
1983 a. 183 s. 20.
1989 a. 12.
1995 a. 27.
2005 a. 83.
2013 a. 189.
2014 a. 308.
2017 a. 52; 2018 a. 56; 2019 a. 17.
2021 a. 241.

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

History:
1979 c. 34; 1987 a. 197.

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 the 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.

History:
1985 a. 25; 1995 a. 27.

Legislative Council Note, 1985: This section is repealed and recreated in order to remove the following powers of the commissioner of banking related to the operation of the state deposit guarantee fund:

Contracting for reinsurance of the fund to protect it against excessive loss.
Fixing the rate of payment into the fund.
Levying and collecting penalties.

Prescribing rules for the qualification of credit unions, banks and savings and loan associations as public depositories and fixing terms and conditions under which public deposits may be held.
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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) The secretary of administration or his or her designee shall:

(a) Establish procedures for the selection of public depositaries 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.

(bm) 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.

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

(f) Establish by rule minimum depository operational requirements that any institution must meet prior to being considered as eligible to submit any proposal to serve as a public depository or to provide services.

(g) Upon request of any state agency or department, provide assistance in the selection of a depository.

(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.

(3) The secretary of administration or his or her designee may, for cause, disapprove any contract submitted under sub. (2) if he or she finds the proposed contract to be in violation of the guidelines established under sub. (1), or to have been improperly negotiated or to be otherwise illegal. If the secretary of administration or his or her designee fails to disapprove a proposed contract within 30 days after it is submitted by the department or agency, the contract shall be deemed approved. The secretary of administration or his or her designee shall provide written justification for disapproving a contract proposed by a state agency or department. A disapproval is subject to judicial review under ch. 227.

(4) State agencies and departments shall provide the secretary of administration or his or her designee with a written justification for any proposed contract award for service.


34.05 Designation of public depositaries. (1) The governing board of each public depository shall, by resolution, designate one or more public depositaries, organized and doing business under the laws of this state or federal law and located in this state, in which the treasurer of the governing board shall deposit all public moneys received by him or her and specify whether the moneys shall be maintained in time deposits subject to the limitations of s. 66.0603 (1m), demand deposits, or savings deposits and whether a surety bond or other security shall be required to be furnished under s. 34.07 by the public depository to secure the repayment of such deposits. A designation of a public depository by the governing board shall be a designation of the public depository for all treasurers of the governing board and for all public depositories for which each treasurer shall act.

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).


34.08 Payment of losses. (1) Except as provided in sub. (2), the appropriation in s. 20.144 (1) (a) shall be used to repay public depositories 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 (1) (a) and the secretary of administration shall pay the warrant under s. 16.16 (1) (g) 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).


34.09 Financial institutions eligible as public depositories. Every federal or state credit union, state bank, federal or state savings and loan association, foreign corporation, association or trust, and each national or state credit union, bank, savings bank, or savings and loan association which agrees to assume a stabilization and readjustment agreement or a proposed sale of assets if, in its judgment and that of the division of banking, the reorganization plan or stabilization and readjustment agreement proposed by the public depository is not required to file with the commissioner of banking an agreement that it will pay specified sums to the state deposit guarantee fund. This provision is no longer necessary since the state deposit guarantee fund is prospectively abolished in this chapter. 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 as a depository for reserve funds of state banks until ss. 180.1501 and 180.1503 to 180.1507, such bank, savings bank or savings and loan association shall not be qualified to act as a public depository for any public moneys, nor as a depository for reserve funds of state banks until ss. 180.1501 and 180.1503 to 180.1507 are complied with by the foreign corporation, association or trust.


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 a credit union, bank, savings bank, or savings and loan association, with the approval 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 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.


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 monies 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.
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.