

## CHAPTER 6:02:02

### COLLATERAL SEGREGATION

#### Section

- 6:02:02:01 Reporting dates.
- 6:02:02:02 Contents of liability report.
- 6:02:02:03 Adequacy of eligible collateral for securing public deposits.
- 6:02:02:04 ~~Notarization~~ Signature of report.
- 6:02:02:05 Withdrawal of public funds in case of insufficient collateral.
- 6:02:02:06 Method of pledging eligible securities, certificates of deposit or issuing letters of credit.
  - 6:02:02:06.01 Surety bonds as security for public deposits in lieu of pledging eligible securities or furnishing letters of credit.
  - 6:02:02:06.02 Requirements on public depository furnishing collateral.
  - 6:02:02:06.03 Pledging certificates of deposit as eligible collateral.
- 6:02:02:07 Safekeeping and release of collateral.

**6:02:02:02. Contents of liability report.** All qualified public depositories in the state must return to the commission a standard public depository liability report which includes the following information: name of depository; call date; date submitted; amount and number of public demand and time deposits over the amount of deposit insurance as of the current reporting date; the total amount of public funds deposited by the state, a political subdivision, or any tribal government defined in SDCL 4-6A-1(6) which are currently federally insured; and the maximum liability of the depository. Public

depositories in which public funds are deposited under SDCL chapter 4-6A include any state bank, ~~trust company~~, national bank, savings and loan association, or credit union located within this state.

**Source:** 2 SDR 51, effective January 13, 1976; 13 SDR 37, effective October 9, 1986; 24 SDR 93, effective January 12, 1998.

**General Authority:** SDCL 4-6A-20.

**Law Implemented:** SDCL 4-6A-6, 4-6A-7.

**Cross Reference:** Definition of maximum liability, SDCL 4-6A-1(5).

**6:02:02:03. Adequacy of eligible collateral for securing public deposits.** The adequacy of present collateral being used to secure uninsured public deposits must be computed and shown by the public depository, with any deficiency being made up by an immediate pledge of additional eligible security collateral to the ~~South Dakota Public Deposit Protection Commission~~ commission, the immediate issuance of an irrevocable standby letter of credit, or the immediate guarantee of a corporate surety bond.

\_\_\_\_All securities pledged to secure uninsured public deposits are to be listed and described by name, number, rate, maturity or due date, par or original face value, current market value not including accrued interest, and custodian name and location.

All certificates of deposit pledged to secure uninsured public deposits are to be listed and described by the name of the issuing institution, certificate number, dollar value, rate of interest to be paid, maturity date, and name and location of custodian.

A satisfactory irrevocable standby letter of credit issued to secure uninsured public deposits which is accepted by the state treasurer ~~in~~ on behalf of the commission must be

listed and described by name, number, aggregate amount, status of either "new" or "renewal," and an acceptable expiration date. An irrevocable standby letter of credit is satisfactory to the commission if it is issued by a federal home loan bank whose credit rating is at least "AA," and if it meets the requirements of § 6:02:02:06. An expiration date is acceptable to the commission if it is a specific date or it is a definite term which is not more than 10 years in the future.

A satisfactory surety bond provided as a guarantee to secure uninsured public deposits which is accepted by the state treasurer ~~in~~ on behalf of the commission must be listed and described by name, number, total amount, and date of termination. A surety bond is satisfactory to the commission if it is issued in a maximum guaranteed amount equal to the total limit of liability of the corporation under the bond and if it meets the requirements of § 6:02:02:06.01.

**Source:** 2 SDR 51, effective January 13, 1976; 24 SDR 93, effective January 12, 1998.

**General Authority:** SDCL 4-6A-20.

**Law Implemented:** SDCL 4-6A-3, 4-6A-6, 4-6A-7.

**6:02:02:04. ~~Notarization~~ Signature of report.** All liability reports as described in § 6:02:02:02 must be signed by an authorized officer or employee of the public depository ~~and sworn to before a notary public.~~

**Source:** 2 SDR 51, effective January 13, 1976; 24 SDR 93, effective January 12, 1998.

**General Authority:** SDCL 4-6A-20.

**Law Implemented:** SDCL 4-6A-6, 4-6A-7.

**6:02:02:05. Withdrawal of public funds in case of insufficient collateral.** If the commission determines that a public depository has insufficient collateral pledged, issued, or guaranteed in support of its public deposits, the commission must notify the public depository of the insufficiency. The public depository has 10 days to pledge additional securities, issue letters of credit, or guarantee surety bonds eligible collateral to meet the requirement. If after this time the public depository has not complied with its pledging requirements, the commission shall withdraw sufficient public funds from the public depository to assure compliance with the public depository's pledging requirements in the segregation and issuance of collateral for those public deposits which exceed deposit insurance.

**Source:** 2 SDR 51, effective January 13, 1976; 24 SDR 93, effective January 12, 1998.

**General Authority:** SDCL 4-6A-20.

**Law Implemented:** SDCL 4-6A-3, 4-6A-4, 4-6A-20.

**Cross-References:**

Bank investments -- Restrictions set by rule -- Limitations, SDCL 51A-4-25.

Exceptions to investment limitation, SDCL 51A-4-26.

Preferential deposits, SDCL 51A-10-9.

~~Preference to certain public depositors or creditors by pledge of assets -- First lien, SDCL 52-5-20.~~

**6:02:02:06. Method of pledging eligible securities, certificates of deposit or issuing letters of credit.** Every security or certificate of deposit pledged to the commission must be deposited with a custodian that is a member of the federal reserve system, and evidenced with joint receipts of custody from the custodian. One copy must be sent to the state treasurer and one copy must be sent to the qualified public depository which has secured the public deposits. In lieu of securities, certificates of deposit, book entry receipts, or investment securities which include portions of loans which are unconditionally guaranteed by a United State's government agency, irrevocable standby letters of credit may be furnished on behalf of the public depository if they are provided according to the requirements of § 6:02:02:03 and if the letter of credit is issued by a federal home loan bank. Each letter of credit must be assigned to the commission as the beneficiary and must be accompanied by a credit rating report.

**Source:** 13 SDR 37, effective October 9, 1986; 24 SDR 93, effective January 12, 1998.

**General Authority:** SDCL 4-6A-20.

**Law Implemented:** SDCL 4-6A-1, 4-6A-3, 4-6A-5.

**6:02:02:06.01. Surety bonds as security for public deposits in lieu of pledging eligible securities or furnishing letters of credit.** Corporate surety bonds, when given, must be designated to the commission and together with the value of security offered must be acceptable to the commission according to the requirements in § 6:02:02:03. Each surety bond must be issued by an insurance company licensed under SDCL title 58 or by a surety company which is authorized to transact the business of a surety in this

state and each surety bond must have a face value of at least ~~110~~ 100 percent of the amount of that portion of the public deposits to be secured by the eligible collateral.

**Source:** 24 SDR 93, effective January 12, 1998.

**General Authority:** SDCL 4-6A-20.

**Law Implemented:** SDCL 4-6A-3, 4-6A-4, 4-6A-5.

**6:02:02:06.02. Requirements on public depository furnishing collateral.** The commission may request information from any qualified public depository pledging securities, ~~furnishing a letter of credit, or giving a surety bond~~ eligible collateral, which enables the commission to determine that the state's security interests in the ~~investments~~ eligible collateral may be perfected. If the commission determines that a qualified public depository does not have, in accordance with SDCL 4-6A-3, segregated eligible collateral as security for uninsured public deposits in the amount of at least ~~110~~ 100 percent of the uninsured deposits, the public depository must use eligible collateral that adequately secures the public deposits so that public deposits are granted a paramount, preferred, and perfected first lien on the public depository's assets segregated.

**Source:** 24 SDR 93, effective January 12, 1998.

**General Authority:** SDCL 4-6A-20.

**Law Implemented:** SDCL 4-6A-3, 4-6A-6, 51A-10-9, ~~52-5-20~~.

**6:02:02:06.03. Pledging certificates of deposit as eligible collateral.** A certificate of deposit purchased from another institution and held as an asset of the qualified public depository may be pledged to the commission up to the amount of

deposit insurance if the certificate of deposit is deposited with a custodian according to the requirements in § 6:02:02:06.

**Source:**

**General Authority: SDCL 4-6A-20.**

**Law Implemented: SDCL 4-6A-3.**