

## CHAPTER 07 - COLLATERALIZATION OF DEPOSITS

### SECTION .0100 - GENERAL

#### 20 NCAC 07 .0101 GENERAL INFORMATION

(a) This Chapter sets forth the manner in which the official depositories shall provide the collateralization of the uninsured balances on deposit in accordance with provisions in G.S. 18B-702(d), G.S. 115C-443 and 444, G.S. 115D-58.6(b) and 58.7(b), and G.S. 147-69.1 and 79, G.S. 159-30 and 31, G.S. 116-36.1(h), and G.S. 84-34.1

(b) All correspondence to the State Treasurer under this Chapter shall be addressed to: Division of Investment and Banking, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994; August 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;  
Amended Eff. September 1, 2019.*

#### 20 NCAC 07 .0102 DEFINITION OF TERMS

The words and phrases defined in this Rule will have the meanings indicated when used in this Chapter, unless the context clearly requires another meaning:

- (1) "Affiliate" means "affiliate" as defined in 12 USC 371c(b)(1) including subsequent amendments.
- (2) "Demand Deposits" are all deposits that are not time deposits as defined in these Rules, i.e. all non-interest bearing deposits.
- (3) "Deposit Accounts" include all demand and time deposits as defined in these Rules.
- (4) "Deposit Insurance" means the insurance provided by the Federal Deposit Insurance Corporation.
- (5) "Depository" means a financial institution into which the State Treasurer or a participating unit is empowered to deposit money with or without interest, and which is required by law to secure the deposits with deposit insurance and collateral securities.
- (6) "Governmental Unit" includes any city, town, county, special district, public hospital, public authority, whose deposits are required to be secured.
- (7) "Participating Unit" means any governmental unit, any city or county school administrative unit, any community college, any local ABC board, any university depositing moneys pursuant to G.S. 116-36(h), and the State Bar of North Carolina.
- (8) "Public Depositor" means the State Treasurer or the person charged with the custody of public deposits of a participating unit. In the case of special funds of the individual schools of a city or county school administrative unit, this person is the school finance officer.
- (9) "Public Deposits" means all deposits made to the account of the State Treasurer and all deposits made by a participating unit in any depository, including those held by the depository in an escrow capacity.
- (10) "State Funds" means deposits to the account of the State Treasurer.
- (11) "State Treasurer" means the State Treasurer of North Carolina.
- (12) "Time Deposits" means interest-bearing deposits, including savings accounts, negotiable order of withdrawal (NOW) accounts, money market deposit accounts (MMDA), and certificates of deposits and savings certificates, both negotiable and non-negotiable.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994; September 1, 1988; June 1, 1984; November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

#### 20 NCAC 07 .0103 NOTIFICATION BY DEPOSITOR

- (a) When opening a new deposit account, the public depositor shall provide the depository either written or oral notification that the deposits in said deposit account are public deposits subject to the collateralization rules.
- (b) As of June 30 of each year, or when requested by the State Treasurer, the public depositor shall provide the depository Form COLL-91, "Annual Notification of Accounts by Public Depositor," listing the current account names and numbers of all public deposit accounts, and shall provide a duplicate copy to the State Treasurer. Form COLL-91 shall be certified by the public depositor that the statements are correct.
- (c) If the depository has any reason to believe that a deposit account for which it has not received a notification pursuant to Paragraph (a) of this Rule is in fact a public deposit, it may forward to the public depositor a written request for verification of the deposit account. The public depositor shall respond promptly to this request in writing to the depository.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b); Eff. August 1, 1980; Readopted with Change Eff. February 1, 1982; Amended Eff. April 1, 1994; September 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016; Amended Eff. November 1, 2020.*

## **20 NCAC 07 .0104 METHODS OF SECURING DEPOSITS**

- (a) Deposits of Public Depositors. Except for public deposits of housing authorities each depository shall have the following options:
- (1) Dedicated Method. To secure all uninsured public deposits of each public depositor separately. The depository shall maintain a record of all securities pledged, with such record being an official record of the depository and made available to examiners or representatives of all regulatory agencies. Each public depositor shall maintain a record of the securities pledged for monitoring purposes.
  - (2) Pooling Method. To secure all uninsured public deposits of every public depositor through a pool of collateral established by the depository with the State Treasurer for the benefit of the State and the participating units. The depository shall maintain a record of all securities pledged, with such record being an official record of the depository and made available to examiners or representatives of all regulatory agencies. The State Treasurer shall maintain a record of the securities pledged for monitoring purposes.
- (b) Notwithstanding the definitions in 20 NCAC 7 .0102, housing authorities established pursuant to G.S. 157, Article 1 and operating under the provisions of the United States Housing Act of 1937, as amended, shall not be eligible to be included in the Pooling Method. The deposits of such housing authorities shall be collateralized under the Dedicated Method, and in accordance with any further restrictions required by regulations of the United States Department of Housing and Urban Development.
- (c) The State Treasurer shall maintain a listing of depositories which have selected the Pooling Method, and shall periodically make such listing available to all participating units.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b); Eff. August 1, 1980; Readopted with Change Eff. February 1, 1982; Amended Eff. April 1, 1994; November 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

## **20 NCAC 07 .0105 EXERCISING THE POOLING METHOD**

- (a) Unless and until the requirements of this Rule are met, the depository is considered to be under the Dedicated Method.
- (b) If the depository selects the Pooling Method, it shall:
- (1) Submit to the State Treasurer a letter of intent, indicating the effective date it desires to convert to the Pooling Method, which shall not be prior to the date the requirements of this Rule are met.
  - (2) Submit to the State Treasurer an executed Form COLL-93A, "Security Agreement with Resolution," required to comply with Rule .0305 of this Chapter.

- (3) Submit to the State Treasurer all executed escrow agreements required to comply with Rule .0303(b) of this Chapter.
  - (4) Submit to the State Treasurer Form COLL-99, "Selected Financial Data Report," referred to in Rule .0501(c) of this Chapter.
  - (5) Submit to the State Treasurer Form COLL-97, "Annual Report of Public Deposit Accounts by Bank," referred to in Rule .0502(c) of this Chapter; however, the report shall be for the period immediately preceding the date of the election of the Pooling Method.
  - (6) Submit to each public depositor Form COLL-92, "Election of Pooling Method by Bank," notifying them that it has opted to pool the collateral of all public deposits through the State Treasurer; and provide the State Treasurer a duplicate copy of all "Election of Pooling Method by Bank" forms.
- (c) When the Pooling Method is chosen, the depository shall pledge the required amount of collateral with the escrow agent in one of two ways:
- (1) The depository shall request the public depositor to sign a letter authorizing the escrow agent to release any collateral securities pledged to the participating unit to be simultaneously repledged to the State Treasurer, with the effective date of the release not being prior to the effective date indicated on the Form COLL-92. The recognized effective date shall be the date on which the escrow agent records the pledge of the required collateral securities to the State Treasurer.
  - (2) The depository shall first pledge the required amount of collateral securities with the escrow agent to the account of the State Treasurer, and then request the public depositor to sign a letter authorizing the escrow agent to release any collateral securities pledged to the participating unit without substitution. The recognized effective date shall be the effective date indicated on the Form COLL-92.
- (d) The public depositor shall promptly sign any authorization letter referred to in Paragraph (c) of this Rule.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b); Eff. August 1, 1980; Readopted with Change Eff. February 1, 1982; Amended Eff. April 1, 1994; September 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016; Amended November 1, 2020.*

## **20 NCAC 07 .0106 FORMS**

The following forms shall be promulgated by the State Treasurer and shall be used for the purpose outlined in this Chapter unless specific permission is given to use a substitute:

- (1) COLL-91 Annual Notification of Accounts by Public Depositor,
- (2) COLL-92 Election of Pooling Method by Bank,
- (3) COLL-93A Security Agreement with Resolution (Pooling Method),
- (4) COLL-93B Escrow Agent Agreement (Pooling Method),
- (5) COLL-94A Security Agreement with Resolution (Dedicated Method),
- (6) COLL-94B Escrow Agent Agreement (Dedicated Method),
- (7) COLL-95 Request for Collateral Pledge and/or Release,
- (8) COLL-96 Report on Public Deposits by Month or Quarter,
- (9) COLL-97 Annual Report of Public Deposit Accounts by Bank,
- (10) COLL-98 Collateral Report for Public Deposits,
- (11) COLL-99 Selected Financial Data Report.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b); Eff. February 1, 1982; Amended Eff. April 1, 1994; September 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016; Amended Eff. November 1, 2020.*

## **20 NCAC 07 .0107 DUTY OF DEPOSITORY**

By accepting public deposits, the depository assumes the duty and responsibility of maintaining adequate collateral as provided by law and in accordance with the provisions of this Chapter, for all uninsured deposits in accounts for which the public depositor has notified the depository pursuant to Rule .0103 of this Chapter.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. September 1, 1988;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

## **SECTION .0200 - SECURITIES TO BE DEPOSITED**

### **20 NCAC 07 .0201 ELIGIBLE INVESTMENT SECURITIES**

The following types of investment securities are eligible for pledging as security provided that the securities are currently eligible for investment by the depository and can be included at full value in the reserves of the depository:

- (1) Obligations of the United States of America;
- (2) Obligations of any agency or instrumentality of the United States of America if the payment of such obligations is fully guaranteed by the United States of America;
- (3) Obligations of the State of North Carolina, the N.C. Medical Care Commission, the N.C. Housing Finance Agency, the N.C. State Education Assistance Authority and the component institutions of the University of North Carolina;
- (4) Bonds or notes of any North Carolina local government or public authority issued with the approval of the Local Government Commission and not currently in default on payment of interest or principal of any of its bonds or notes;
- (5) General obligations bonds of other states whose full faith and credit are pledged to the payment of principal and interest thereof;
- (6) Bonds, notes and other direct obligations of the Federal Financing Bank, the Farm Credit System, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service, the Export-Import Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the Student Loan Marketing Association;
- (7) Bonds or notes of a housing authority established or to be established pursuant to Article 1, Chapter 157 of the General Statutes of North Carolina or issued by any public housing authority or agency in the United States, when such bonds and notes are secured by a pledge of an annual contribution to be paid by the United States government or any agency thereof, or bonds or notes which may be issued by a not-for-profit corporate agency of a housing authority secured by rentals payable pursuant to Section 23 of the United States Housing Acts of 1937, as amended;
- (8) Pre-refunded bonds and bonds escrowed to maturity - if the issuer shall have applied for and received a re-rating of "AAA" by at least one nationally recognized rating service by reason of U.S. Government securities being escrowed with the trustee;
- (9) Special obligation bonds - if they were originally rated "AAA" by reason of U.S. Government securities being escrowed with the trustee;
- (10) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;
- (11) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company either:
  - (a) is incorporated in the State of North Carolina; or
  - (b) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.

In case of questions, it is the responsibility of the depository to demonstrate that the security pledged does fulfill the requirements of this Rule.

*History Note: Authority G. S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994; June 1, 1984; November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

## **20 NCAC 07 .0202 AMOUNT OF COLLATERAL REQUIRED TO BE PLEDGED**

(a) Under the Dedicated Method, each depository, which is required to pledge collateral to secure the deposit accounts of a public depositor, shall maintain collateral with an escrow agent equal to or in excess of 100 percent of the total amount of all deposit accounts to the credit of the public depositor less the allowable credit for deposit insurance.

(b) Under the Pooling Method, the amount of required collateral shall be the sum of the amounts required to be collateralized for all public depositors in the depository calculated as follows:

- (1) Demand Deposits. 100 percent of the average daily balance for the calendar year to date, or 100 percent of the average daily balance for the immediate preceding three calendar month period, or 100 percent of the average daily balance for the current month to date, or such greater amount as shall be given prior approval by the State Treasurer, less the applicable deposit insurance for each public depositor. Calculations for any period other than the "current month to date" method may be based on the period ending the last day of the prior month. At the option of the State Treasurer, the Treasurer may require calculations to be in accordance with the requirements of the Dedicated Method, if it is deemed that the averaging method for a particular depository does not accurately reflect the amount of deposits to be secured.
- (2) Time Deposits. 100 percent of the actual current balance, less the applicable deposit insurance for each public depositor.

(c) The maximum amounts of deposit insurance which may be applied to a public depositor shall be one hundred thousand dollars (\$100,000) on demand deposits and a separate one hundred thousand dollars (\$100,000) on time deposits ; however, the deposits in the name of an individual school treasurer shall be allowed one hundred thousand dollars (\$100,000) total insurance on both time and demand deposits combined. An unused amount of insurance may not be applied to another public depositor or to another type of deposit.

(d) All eligible securities pledged shall be valued at current market.

(e) The public depositor in the case of the Dedicated Method and the State Treasurer in the case of the Pooling Method may require the amount of collateral to be pledged by the depository to be 10 percent greater than the amount required under this Rule, if the market value of pledged securities is below the amount reasonably required to insure public deposits against the risks apparent at the time of the request.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994; September 1, 1988; November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

## **20 NCAC 07 .0203 SURETY BONDS**

Surety bonds with a corporate surety may be substituted in lieu of part or all of the collateral required under this Chapter under the following conditions:

- (1) The company is licensed by the Commissioner of Insurance to conduct the business of suretyship in North Carolina, and is acceptable to the State Treasurer.
- (2) The company may not provide surety bonds to collateralize public deposits within North Carolina in amounts exceeding the underwriting limitations established by the U.S. Department of the Treasury as provided in Sections 3904 to 3908 of Title 31 of the United States Code or successor provisions.

- (3) The bond must not permit reduction in the penal amount except with the express written permission of the State Treasurer in the case of the Pooling Method, or public depositor in the case of the Dedicated Method.
- (4) The company must agree to provide the State Treasurer a quarterly report listing all surety bonds issued to collateralize public deposits in North Carolina. The report shall list at a minimum the person to whom issued, the depository for whom issued, the penal sum at the end of the quarter, the highest penal sum during the quarter and the date(s) to which the highest penal sum applied, and the underwriting limitation as defined in Paragraph (2) of this Rule currently in effect.
- (5) The surety bond must include the rules in 20 NCAC 7 by reference and provide that said rules and the definitions therein shall prevail in all questions of conflict with other provisions of the bond.
- (6) The bond shall be payable in federal funds no later than the tenth calendar day after final adjudication. Final adjudication means the issuance of a ruling by the State Treasurer that a default exists, which ruling has not been stayed by an appeal of the ruling as provided by law.

The words "collateral" and "collateralize" shall include surety bonds and the use of surety bonds when used in any rule of this Chapter not incompatible with this Rule.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. November 1, 1983;  
Amended Eff. April 1, 1994; June 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

## **SECTION .0300 - ESCROW OF SECURITIES**

### **20 NCAC 07 .0301 ELIGIBLE ESCROW AGENTS**

All securities pledged to secure public deposits shall be deposited either:

- (1) with a Federal Reserve Bank or a Federal Home Loan Bank or a branch thereof pursuant to Rule .0302 of this Section; or
- (2) with a national or state-chartered bank which is not an affiliate of the depository and which has the authority to conduct a trust business pursuant to Rule .0303 of this Section.

*History Note: Authority G. S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted Eff. February 1, 1982;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

### **20 NCAC 07 .0302 ESCROW WITH FEDERAL RESERVE BANK OR FEDERAL HOME LOAN BANK**

(a) Securities pledged with a Federal Reserve Bank or a branch thereof shall be deposited under Circular 16 of the Federal Reserve Banks in the name of the State Treasurer in the case of the Pooling Method or the public depositor in the case of the Dedicated Method. The appropriate signature card must be executed.

(b) Securities pledged with a Federal Home Loan Bank or a branch thereof shall be deposited pursuant to Rule .0303(b) of this Section, and pursuant to the terms of the Federal Home Loan Bank's "Pledge Agreement Custody Receipt" which may be in effect from time to time. The pledgee shall be the State Treasurer in the case of the Pooling Method or the public depositor in the case of the Dedicated Method.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

### **20 NCAC 07 .0303 ESCROW WITH A NATIONAL OR STATE-CHARTERED BANK**

(a) Any bank or trust company which is not an affiliate of the depository, and which is authorized to conduct a trust business and is chartered by the United States government or any of its fifty states is eligible to act as an escrow agent.

(b) All escrow accounts shall be established with the appropriate Escrow Agent Agreement. Escrow accounts for the State Treasurer under the Pooling Method shall be established by Form COLL-93B. Escrow accounts for a public depositor under the Dedicated Method shall be established by Form COLL-94B. The escrow agent agreements shall contain the necessary language to establish the required trust as provided in this Chapter.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;  
Amended eff. November 1, 2020.*

#### **20 NCAC 07 .0304 PLEDGING AND RELEASING COLLATERAL**

(a) All pledges and releases of collateral to or from an escrow account shall be initiated by means of Form COLL-95, "Request for Collateral Pledge and/or Release." The form shall require the following:

- (1) Amount and description (including CUSIP numbers) of securities to be released and pledged;
- (2) The effect of the transaction(s) on the total collateral pledged, including the percentage of excess then pledged, if a decrease;
- (3) Prior approval of all releases and substitutions of collateral by the State Treasurer or public depositor, as applicable;
- (4) That all transactions be reported to the State Treasurer or public depositor as applicable; and
- (5) Certification by an authorized official of the depository that after the transaction(s) are completed, the collateral pledged meets the requirements of Rule .0202 of this Chapter.

(b) Nothing in this Rule shall have the effect of reducing the obligations of the depository to secure public deposits or the required amount of collateral to be pledged.

(c) The depository may substitute its own format for Form COLL-95 provided the format is substantially the same in content and order of presentation.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994; September 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;  
Amended November 1, 2020.*

#### **20 NCAC 07 .0305 SECURITY AGREEMENTS**

(a) Under the Dedicated Method, each depository which is required to pledge collateral to secure the deposits of a public depositor, shall execute with the public depositor Form COLL-94A, "Security Agreement with Resolution (Dedicated Method)." Form COLL-94A shall consist of both a "Depository Resolution" and a "Security Agreement."

(b) Each depository that elects the Pooling Method is required to execute with the State Treasurer Form COLL-93A, "Security Agreement with Resolution (Pooling Method)." Form COLL-93A shall consist of both a "Depository Resolution" and a "Security Agreement."

(c) Forms COLL-93A and COLL-94A shall contain the necessary language required to establish the provisions for the perfected delivery of collateral securities pursuant to the requirements of the Federal Deposit Insurance Corporation's Policy Statement dated March 23, 1993, which is incorporated herein by reference including later amendments thereto, and of the North Carolina Uniform Commercial Code. A copy of the Federal Deposit Insurance Corporation Policy Statement may be obtained from the Investment and Banking Division, 3200 Atlantic Avenue, Raleigh, North Carolina 27604 on receipt of a request accompanied by a self addressed, stamped # 10 envelope.

*History Note:* Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. November 1, 1983;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;  
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Amended Eff. November 1, 2020.

## **SECTION .0400 - DELIVERY AND SALE OF PLEDGED SECURITIES IN THE EVENT OF DEFAULT**

### **20 NCAC 07 .0401 REQUEST FOR DELIVERY OF PLEDGED SECURITIES**

- (a) The State Treasurer shall, upon default of the depository, request delivery of such part of the pledged collateral as may be needed to hold the State Treasurer and or any participating unit harmless from losses incurred by the default. The State Treasurer shall have full discretion as to the amounts and securities to be delivered but shall attempt to choose those securities which he believes to be the most saleable in the circumstances.
- (b) A default is defined as the failure of the depository to fulfill its statutory duties to honor timely requests for withdrawals. A legitimate dispute regarding the liability of the depository for specific items of deposit or withdrawal shall not be considered a default during the period of adjudicating the dispute so long as the disputed amounts are 100 percent separately collateralized by the depository at market value in accordance with this Chapter.
- (c) The State Treasurer shall provide at least 24 hours notice to the depository and may provide up to 7 calendar days notice of his order to the escrow agent to deliver part or all of the pledged securities to the State Treasurer and notice of the amount of the default. During the notice period the depository shall have the right to pay off the amount in default in full by the sale of any of the securities pledged which the depository chooses to sell, provided that the escrow agent or the depository shall transfer the entire amount of the default in federal funds to the State Treasurer prior to the due date for delivery of the pledged securities. This notice may be provided solely by telephone communication.

*History Note:* Authority G. S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted Eff. February 1, 1982;  
Amended Eff. April 1, 1994; November 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

### **20 NCAC 07 .0402 SAFEKEEPING OF DELIVERED SECURITIES**

- (a) The State Treasurer may, at his sole discretion, require delivery either to the Investment and Banking Division, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604 or to any duly licensed State chartered or national bank designated by the State Treasurer.
- (b) The State Treasurer shall use the same care with respect to the custody of the delivered securities as he exercises with respect to the State investments in his custody but he shall not insure the delivered securities against any risks.

*History Note:* Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted Eff. February 1, 1982;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;  
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### **20 NCAC 07 .0403 CERTIFICATION OF DEFAULT BY PUBLIC DEPOSITORS**

- (a) The public depositor shall provide to the State Treasurer a statement of all circumstances which he feels gives rise to a default. Each public depositor is required to discuss with the State Treasurer the need for a determination on the existence of a default prior to the sending of the statement. The statement shall be notarized and mailed to the State Treasurer certified mail, return receipt requested. In addition, each public depositor shall provide the State Treasurer with certified copies of the security agreement with resolution, the escrow agent agreements, or other agreement, and a current list of securities pledged to secure the applicable deposit accounts.

(b) The State Treasurer shall make a determination no later than the close of the business day, next following receipt of the request with regard to the default. The State Treasurer shall determine that:

- (1) a default has occurred,
- (2) a default has not occurred, or
- (3) that additional information is necessary before a ruling can be made.

If additional information is necessary, the public depositor may provide the information required. If it is provided, the public depositor shall submit the information, notarized, by certified mail, return receipt requested. Receipt of the new information shall be considered to be a new request for determination. Appeal of a determination of the State Treasurer shall be considered a contested case.

(c) Upon determining that there is a default as regards a public depositor other than the State Treasurer, the State Treasurer shall proceed under Rule .0401 of this Section.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted Eff. February 1, 1982;  
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## **20 NCAC 07 .0404 SALE OF THE DELIVERED SECURITIES**

(a) The State Treasurer shall canvass its normal buyers for the type of securities which are to be sold and all potential buyers furnished to him by the depository from among licensed dealers who either make a market in the security or are currently offering to buy the security.

(b) The State Treasurer shall sell as much of the securities as are needed to provide cash to cover the amount of the default. The State Treasurer may sell, at his sole discretion, all or part of any specific issue of security to be sold.

(c) The State Treasurer shall deposit from the proceeds of the sale the amount of any default on deposit accounts of State funds in the applicable fund of the State and shall return all unsold securities and excess cash to the depository. The State Treasurer shall provide to the depository a release for the amount of default paid and such other documentation as may be appropriate to enable the depository to pursue a claim against a third party for the amount of the default.

(d) If the default is on deposit accounts of a public depositor of a participating unit, the State Treasurer shall retain the amount of the default and shall return all unsold securities and excess cash to the depository. The State Treasurer shall determine the amount distributable from the proceeds of the sale to each public depositor, not to exceed the uninsured amount in default. The State Treasurer shall pay the amount to the public depositor after receiving from the public depositor a release, in duplicate, for the amount in default paid and such other documentation as may be appropriate to enable the depository to pursue a claim against a third party for the amount of the default.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted Eff. February 1, 1982;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

## **SECTION .0500 - REPORTING**

### **20 NCAC 07 .0501 QUARTERLY REPORTING**

(a) In the case of the Dedicated Method, the depository shall report to each public depositor the total par value and market value of securities pledged on the last day of the calendar quarter with the escrow agent(s) to secure public deposits of the public depositor. The reports shall be submitted no later than the last day of the following month.

(b) In the case of the Pooling Method, the depository shall submit Form COLL-96, "Report on Public Deposits by Month or Quarter," to the State Treasurer no later than the last day of the month following the end of the calendar quarter. The report shall be dated on the last working day of the calendar quarter, shall summarize the accounts secured, shall summarize the amounts insured and secured at market, shall indicate the amount and percentage of

excess collateral pledged, and shall be certified by an authorized officer of the depository that the statements are correct.

(c) In addition to the Quarterly Report required by Rule .0501(b) of this Rule, a depository utilizing the Pooling Method shall submit to the State Treasurer Form COLL-99, "Selected Financial Data Report," which is a report containing selected financial data contained in either the current quarterly report of condition required by the Federal Deposit Insurance Act (12 U.S.C.) or the current quarterly report required to be filed with the Federal Home Loan Bank Board, as applicable.

*History Note:* Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994; September 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;  
Amended Eff. November 1, 2020.

#### **20 NCAC 07 .0502 ANNUAL REPORTING**

(a) In the case of the Dedicated Method, on or before July 31 of each year, the depository shall submit to each public depositor Form COLL-98.

(b) In the case of the Pooling Method, on or before July 31 of each year, each depository shall submit to the State Treasurer Forms COLL-97 and COLL-98, in addition to the quarterly report (COLL-96) dated June 30.

(c) Form COLL-97, "Annual Report of Public Deposit Accounts by Bank," shall be dated June 30, shall list all public depositors, and for each public depositor, show the amounts on deposit by type, identify the amounts insured by type, and shall be certified by an authorized officer of the depository that the statements are correct.

(d) Form COLL-98, "Collateral Report for Public Deposits," shall be dated June 30, shall list and describe all collateral pledged (including CUSIP number, par and market value), with each escrow agent for the public depositor or State Treasurer, and shall be certified by an authorized officer of the depository that the statements are correct.

(e) The depository may substitute its own format for Form COLL-97 and COLL-98, provided the format is substantially the same in content and order of presentation.

*History Note:* Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994; September 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;  
Amended Eff. November 1, 2020.

#### **20 NCAC 07 .0503 SPECIAL CALL REPORT**

Not more often than once in each annual period, the State Treasurer may require each depository to furnish a report in the same detail as the annual report as of any business day not more than 10 calendar days before the date at which the special request for the report is mailed. In addition, the State Treasurer may require a detailed report listing the account numbers of each public depositor.

*History Note:* Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. August 1, 1980;  
Readopted with Change Eff. February 1, 1982;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

#### **20 NCAC 07 .0504 SPECIAL REPORTING RULE FOR DEDICATED METHOD DEPOSITORIES**

A depository which has State funds and which has elected the Dedicated Method shall file, in addition to all forms required under the Dedicated Method, Form COLL-99, "Selected Financial Data Report," referred to in Rule .0501, Paragraph (c) of this Section.

*History Note:* Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. February 1, 1982;  
Amended Eff. April 1, 1994; September 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,  
2016;  
Amended Eff. November 1, 2020.

#### **20 NCAC 07 .0505 ADDITIONAL MONTHLY REPORTING REQUIREMENTS**

In the case of the Pooling Method, the State Treasurer may at any time and at his own discretion direct the depository to file a report in the same format as the Quarterly Report required by Rule .0501(b), but on a monthly basis. However, the monthly reporting directive shall be required under any one of the following circumstances:

- (1) A required report is repeatedly not filed timely.
- (2) A required report is filed with a material error.
- (3) A Quarterly Report required by Rule .0501(b) is filed indicating that "excess" collateral pledged is less than 10 percent of the amount required by Rule .0202.
- (4) The depository has been notified that the State Treasurer has invoked Rule .0202(e), requiring additional collateral.

Such monthly reporting directive shall be effective for a period of six months, after which time the depository may resume quarterly reporting. However, subsequent violations shall extend the period of monthly reporting as set forth in this Rule.

*History Note:* Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. September 1, 1988;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,  
2016.

### **SECTION .0600 - ENFORCEMENT**

#### **20 NCAC 07 .0601 AUDIT**

The State Treasurer may cause such audits to be performed as he believes necessary, or may request the active assistance of the State Auditor of North Carolina and of all federal and state regulatory agencies to assist him in the enforcement of the law and regulations regarding collateralization of public deposits pursuant to this Chapter.

*History Note:* Authority G.S. 115C-444(b); 159-31(b);  
Eff. August 1, 1980;  
Readopted Eff. February 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,  
2016.

#### **20 NCAC 07 .0602 REVOCATION**

The State Treasurer may at any time and at his own discretion revoke the right of a depository to use the Pooling Method pursuant to 20 NCAC 7. An appeal of such an order shall be considered a contested case. During the processing of the contested case the order shall remain in effect.

*History Note:* Authority G.S. 115C-444(b); 159-31(b);  
Eff. August 1, 1980;  
Readopted Eff. February 1, 1982;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,  
2016.

#### **20 NCAC 07 .0603 ACCELERATION OF MATURITIES**

(a) Whenever any depository shall fail to correct a deficiency in collateral pursuant to this Chapter, including but not limited to Rule 20 NCAC 7 .0202(e), the State Treasurer or the public depositor of a participating unit, as the case may be, shall cause to be made an oral demand to the depository to correct the deficiency.

(b) The public depositor, in the case of the Dedicated Method, shall report any failure of a depository to correct a deficiency in the collateral pursuant to this Chapter to the State Treasurer no less than one full work day after the oral request to correct the deficiency. This report shall include a full statement of the circumstances surrounding the deficiency. The report shall be oral but shall be immediately followed by a written report.

(c) The State Treasurer, after receiving the oral report from a public depositor pursuant to Paragraph (b) or no less than one full work day after the oral request was made in his name to a depository which fails to correct the deficiency in the collateral required by this Chapter, shall issue a written request to the depository to correct a deficiency in the collateral required by this Chapter. The depository may request an informal hearing before the State Treasurer within seven days of the receipt of the request. The appeal of the ruling by the State Treasurer shall be a contested case heard pursuant to Subchapter 1F of this Title.

(d) Any depository which after receiving the written request to correct a deficiency in the collateral does not correct the deficiency shall be subject to the provision of automatic acceleration of time deposits of public depositors having fixed maturities. On or after seven days from the receipt of the written request sent pursuant to Paragraph (c) of this Rule or three days from the receipt of the written decision of the State Treasurer arising from the hearing, the State Treasurer may cause all time deposits having fixed maturities to be accelerated and become due and payable on demand without any loss in interest through the date actually paid by the depository.

*History Note: Authority G.S. 115C-444(b); 147-79; 159-31(b);  
Eff. November 1, 1983;  
Amended Eff. April 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,  
2016.*