CHAPTER 13

Deposit of State Funds

**SECTION 11‑13‑10.** Vault for State Treasurer.

 The State Treasurer may have a safe in the vault of one of the banks or trust companies in the State, designated by the State Fiscal Accountability Authority, or a majority thereof, and, with the approval of the authority, may place and keep therein monies belonging to the State.

HISTORY: 1962 Code Section 1‑741; 1952 Code Section 1‑741; 1942 Code Section 2197; 1932 Code Section 2197; 1925 (34) 273; 1948 (45) 1643; 1955 (49) 151.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Deposits and Escrows 33.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 40 to 49.

Attorney General’s Opinions

Fees received by Technical Education Centers are, with certain specific statutory exceptions, State Monies and are required to be deposited with the State Treasurer. 1975 S.C. Op.Atty.Gen. 240, 1975 S.C. Op.Atty.Gen. No. 4186, (Nov. 19, 1975) 1975 WL 22481.

**SECTION 11‑13‑20.** Deposit of state funds in banks or trust companies.

 To facilitate the disbursement of public monies, the State Treasurer shall deposit in such bank or banks or trust companies in this State as shall be agreed upon by the State Fiscal Accountability Authority or a majority thereof, and as in its opinion shall be secure, all monies belonging to the State, other than those he may keep in the safe in the vault of the designated bank or trust company, the monies so deposited to be placed to the credit of the State Treasurer. Such deposits shall draw the best rate of interest obtainable.

HISTORY: 1962 Code Section 1‑742; 1952 Code Section 1‑742; 1942 Code Sections 2198, 3179; 1932 Code Sections 2198, 3179; Civ. C. ‘22 Section 874; Civ. C. ‘12 Section 792; Civ. C. ‘02 Section 717; G. S. 574; R. S. 633; 1884 (18) 786; 1925 (34) 273; 1926 (34) 1049; 1950 (46) 3605; 1955 (49) 151.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Deposits and Escrows 33.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 40 to 49.

**SECTION 11‑13‑30.** Only State Treasurer may invest and deposit funds.

 To facilitate the management, investment, and disbursement of public funds, no board, commission, agency or officer within the state government, except the State Treasurer shall be authorized to invest and deposit funds from any source, including, but not limited to, funds for which he is custodian, such funds to draw the best rate of interest obtainable.

HISTORY: 1962 Code Section 1‑742.1; 1971 (57) 709.

Library References

States 122.

Westlaw Topic No. 360.

C.J.S. States Section 373.

Attorney General’s Opinions

The State Treasurer is authorized to invest and deposit funds as provided in section 11‑13‑30 of the Code and is further authorized to employ an investment advisory service. 1988 S.C. Op.Atty.Gen. 168, 1988 S.C. Op.Atty.Gen. No. 88‑60, (August 16, 1988) 1988 WL 383543.

The State Treasurer is responsible for the investment of funds that are being held by the State Commissioner of Mental Health as committee for patients of State Mental Health facilities. 1976 S.C. Op.Atty.Gen. 334, 1976 S.C. Op.Atty.Gen. No. 4472, (Oct. 4, 1976) 1976 WL 23089.

The State Treasurer has the responsibility to invest funds granted or contributed to an institution of higher learning for scholarship purposes. 1976 S.C. Op.Atty.Gen. 303, 1976 S.C. Op.Atty.Gen. No. 4444, (Sept. 13, 1976) 1976 WL 23061.

The State Treasurer is not responsible for the investment of funds of persons or patients at State Institutions such as Mental Health, Mental Retardation, etc. 1976 S.C. Op.Atty.Gen. 305, 1976 S.C. Op.Atty.Gen. No. 4445, (Sept. 13, 1976) 1976 WL 23062.

**SECTION 11‑13‑40.** General deposit account.

 The State Treasurer, with the advice and approval of the State Fiscal Accountability Authority, shall keep in a general deposit account all monies held by him for the account of all state funds which, in the opinion of the authority, may be properly consolidated. The authority shall designate the accounts which shall be so kept and the accounts which shall be carried as special deposits. The records of the State Treasurer and the Comptroller General shall, at all times, reflect the true cash balance of each fund comprising the general deposit account. Properly authorized obligations of the respective state funds comprising the general deposit account shall be paid therefrom, but no overdraft shall be permitted in any funds which will not be covered by the receipt of revenue or monies belonging to such fund within a reasonable time.

HISTORY: 1962 Code Section 1‑743; 1952 Code Section 1‑743; 1947 (45) 97; 1950 (46) 3605.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Deposits and Escrows 33.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 40 to 49.

**SECTION 11‑13‑45.** Deposit and handling of federal funds; donations from other sources.

 All federal funds received must be deposited in the State Treasury, if not in conflict with federal regulations, and withdrawn from the State Treasury as needed, in the same manner as that provided for the disbursement of state funds. If it is determined that federal funds are not available for, or cannot be appropriately used in connection with, all or any part of any activity or program for which state funds are specifically appropriated for the fiscal year to match federal funds, the appropriated funds may not be expended and must be returned to the general fund, except upon specific written approval of the State Fiscal Accountability Authority. Donations or contributions from sources other than the federal government, for use by any state agency, must be deposited in the State Treasury, but in special accounts, and may be withdrawn from the treasury as needed to fulfill the purposes and conditions of the donations or contributions, if specified, and if not specified, as directed by the proper authorities of the department. The expenditure of funds by state agencies from sources other than general fund appropriations are subject to the same limitations and provisions of law applicable to the expenditure of appropriated funds with respect to salaries, wages or other compensation, travel expense, and other allowance or benefits for employees.

HISTORY: 2002 Act No. 356, Section 1, Part XI.D.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Deposits and Escrows 33.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 40 to 49.

**SECTION 11‑13‑60.** Security for state funds deposited in excess of FDIC coverage.

 (A) A qualified public depository, as defined in subsection (E) of this section, upon the deposit of state funds by the State Treasurer, must secure these deposits by deposit insurance, surety bonds, investment securities, or letters of credit to protect the State against loss in the event of insolvency or liquidation of the institution or for any other cause. To the extent that these deposits exceed the amount of insurance coverage provided by the Federal Deposit Insurance Corporation, the qualified public depository, at the time of deposit, shall:

 (1) furnish an indemnity bond in a responsible surety company authorized to do business in this State; or

 (2) pledge as collateral:

 (a) obligations of the United States;

 (b) obligations fully guaranteed both as to principal and interest by the United States;

 (c) general obligations of this State or any political subdivision of this State; or

 (d) obligations of the Federal National Mortgage Association, the Federal Home Loan Bank, Federal Farm Credit Bank, or the Federal Home Loan Mortgage Corporation; or

 (3) provide an irrevocable letter of credit issued by the Federal National Mortgage Association, the Federal Home Loan Bank, Federal Farm Credit Bank, or the Federal Home Loan Mortgage Corporation, in which the State Treasurer is named as beneficiary and the letter of credit otherwise meets the criteria established and prescribed by the State Treasurer. The State Treasurer shall exercise prudence in accepting collateral securities or other forms of deposit security.

 (B)(1) A qualified public depository has the following options:

 (a) To secure all or a portion of uninsured state funds under the Dedicated Method where all or a portion of the uninsured state funds are secured separately. The qualified public depository shall maintain a record of all securities pledged, with the record being an official record of the qualified public 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) To secure all or the remainder of uninsured state funds under the Pooling Method where a pool of collateral is established by the qualified public depository under the direction of the State Treasurer for the benefit of the State. The State Treasurer shall determine the requirements and operating procedures for this pool. The depository shall maintain a record of all securities pledged, with the record being an official record of the qualified public 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.

 (2) Notwithstanding the provisions of item (1) of this subsection, the State Treasurer, when other federal or state law applies, may require a qualified public depository to secure all uninsured state funds separately under the Dedicated Method.

 (C) A qualified public depository shall not accept or retain any state funds that are required to be secured unless it has deposited eligible collateral equal to its required collateral with some proper depository pursuant to this chapter.

 (D) The State Treasurer may assess a fee against the investment earnings of various state funds managed or invested by the State Treasurer to cover the operation and management costs associated with this section and Section 6‑5‑15(E)(1)(b). These fees may be retained and expended to provide these services and may not exceed the actual costs associated with providing the services.

 (E) “Qualified public depository” means any national banking association, state banking association, federal savings and loan association, or federal savings bank located in this State, and any bank, trust company, or savings institution organized under the law of this State that receives or holds state funds that are secured pursuant to this chapter.

HISTORY: 1962 Code Section 1‑745; 1952 Code Section 1‑745; 1942 Code Section 2200; 1932 Code Section 2200; 1925 (34) 273, 1926 (34) 1049; 1952 (47) 1892; 1955 (49) 151; 1973 (58) 335; 1990 Act No. 327, Section 1; 2002 Act No. 211, Section 1; 2008 Act No. 231, Section 2.

CROSS REFERENCES

Exemption from requirement of security to extent of protection by Federal deposit insurance, see Section 11‑1‑50.

Use of obligations of International Bank as security, see Section 11‑1‑70.

Library References

Deposits and Escrows 32.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 62 to 90.

**SECTION 11‑13‑70.** Reports from depositories to Treasurer.

 Banks or trust companies having deposits made by the State Treasurer shall file a report with the Treasurer on the first day of each calendar month on forms furnished by the Comptroller General.

HISTORY: 1962 Code Section 1‑746; 1952 Code Section 1‑746; 1942 Code Section 2201; 1932 Code Section 2201; 1925 (34) 273; 1955 (49) 151.

**SECTION 11‑13‑80.** Depositories to report deposits monthly to Comptroller General.

 Banks or trust companies having on deposit funds of the State shall transmit monthly to the Comptroller General a copy of the report made to the State Treasurer under the provisions of Section 11‑13‑70.

HISTORY: 1962 Code Section 1‑747; 1952 Code Section 1‑747; 1942 Code Section 3182; 1932 Code Section 3182; Civ. C. ‘22 Section 877; Civ. C. ‘12 Section 795; Civ. C. ‘02 Section 718; G. S. 575; R. S. 634; 1868 (14) 15; 1950 (46) 2054; 1955 (49) 151.

Library References

Deposits and Escrows 34.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 91 to 92.

**SECTION 11‑13‑90.** Failure of depository to report.

 In case any depository shall fail to render such statement at the time specified, without good cause shown, the State Treasurer shall at once withdraw all state deposits from such depository and close its account.

HISTORY: 1962 Code Section 1‑748; 1952 Code Section 1‑748; 1942 Code Section 2202; 1932 Code Section 2202; 1925 (34) 273.

Library References

Deposits and Escrows 34.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 91 to 92.

**SECTION 11‑13‑100.** Intermingling official funds with private funds prohibited.

 It shall be unlawful for any state official to deposit public or trust funds with individual or private funds in any bank or other depository in this State, and for any such officer to withdraw any such public or trust funds or any part thereof, for any purpose other than that for which it was received and deposited. Any state official violating this provision of law shall be subject to a fine or imprisonment at the discretion of the court and in addition shall be subject to removal from office for malfeasance in office. This section is intended to require all state officers to carry a state fund not required to be deposited by them in the State Treasury under the provisions of Section 11‑13‑110 in a separate account to be known as public or trust funds without allowing any private funds to be deposited with such public or trust funds.

HISTORY: 1962 Code Section 1‑749; 1952 Code Section 1‑749; 1942 Code Section 3184; 1932 Code Section 3184; 1930 (36) 1250.

Library References

States 122.

Westlaw Topic No. 360.

C.J.S. States Section 373.

**SECTION 11‑13‑110.** State departments, boards, and employees prohibited from depositing monies in banks or other financial institutions; exceptions for revolving funds and revenues not required to be remitted.

 No state officer or employee, on behalf of any state department, board, bureau, commission or other state agency, shall deposit with any bank, trust company, institution, building and loan association or individual any funds belonging to the State whether the same be represented by checks, drafts, bills, currencies or other forms of exchange. But in the discretion of the State Treasurer each department or institution may carry with some bank or banking company an account in the name of such department or institution, as a revolving fund, from which the State Treasurer shall be reimbursed for bad checks. The amount of and necessity for such revolving funds shall be determined by the State Treasurer. The provisions of this section shall not apply to fees or other revenues collected by any state institution which are not required by law to be remitted to the State Treasurer.

HISTORY: 1962 Code Section 1‑750; 1952 Code Section 1‑750; 1942 Code Section 3188; 1932 Code Section 3188; Civ. C. ‘22 Sections 882, 883, 884; 1921 (32) 114; 1930 (36) 1361.

Library References

Deposits and Escrows 33.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 40 to 49.

**SECTION 11‑13‑120.** Manner of depositing state funds; exception for county treasurers.

 All state departments, boards, bureaus, commissions or other state agencies charged with the collection of any taxes, licenses, fees, interest or any income to the State shall, with ordinary business promptness, deposit the same when collected with or to the credit of the State Treasurer, either at his office in the State Capitol or in such bank or banking institution within the State as shall be designated by the State Treasurer; provided, that this section and Section 11‑13‑110 shall not apply to the collection of state taxes by county treasurers, who shall collect and remit as required by the Comptroller General.

HISTORY: 1962 Code Section 1‑751; 1952 Code Section 1‑751; 1942 Code Section 3188; 1932 Code Section 3188; Civ. C. ‘22 Sections 882, 883, 884; 1921 (32) 114; 1930 (36) 1361.

Library References

Deposits and Escrows 33.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 40 to 49.

**SECTION 11‑13‑125.** State Treasury designated as depository for all funds received by state departments and institutions.

 All funds received by any department or institution of the state Government shall be deposited and maintained in appropriate accounts in the State Treasury except such funds as may be authorized by the State Fiscal Accountability Authority to be maintained in departmental or institutional bank accounts for regular operating purposes or for other justifiable circumstances, such accounts to be maintained in such banks or banking institutions as shall be designated by the State Treasurer.

 To facilitate the management of all funds, all earnings from investments of general deposit funds shall become a part of the General Fund of the State.

HISTORY: 1977 Act No. 219, Part II, Section 8.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Deposits and Escrows 31.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 54 to 61.

Attorney General’s Opinions

Federal funds become State funds upon their receipt by State Treasurer for some purposes such as appropriation; federal funds actually lose their identity as federal funds when such are paid to ultimate beneficiary for which they were granted. 1985 S.C. Op.Atty.Gen. 86, 1985 S.C. Op.Atty.Gen. No. 85‑26, (March 25, 1985) 1985 WL 165996.

**SECTION 11‑13‑130.** Deposit slips.

 The State Treasurer shall designate a form of deposit slip to be used by each department and institution in making deposits, and each department and institution shall provide a sufficient amount of such deposit slips for its use and strictly adhere to the systems prescribed by the State Treasurer in the handling of state funds.

HISTORY: 1962 Code Section 1‑752; 1952 Code Section 1‑752; 1942 Code Section 3188; 1932 Code Section 3188; Civ. C. ‘22 Sections 882, 883, 884; 1921 (32) 114; 1930 (36) 1361.

Library References

Deposits and Escrows 33.

Westlaw Topic No. 122A.

C.J.S. Depos: Sections 40 to 49.

**SECTION 11‑13‑140.** State Treasury deemed bank for federal purposes.

 For purposes of federal law or regulation relating to funds allotted to state agencies which include requirements relating to banking procedures, the State Treasury is deemed to meet the definition of a bank.

HISTORY: 2002 Act No. 356, Section 1, Part XI.E.