

Collateralization Of Public Deposits In North Carolina

**Department of State Treasurer
State of North Carolina
Raleigh**

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This document may be accessed at the State Treasurer's website:
www.nctreasurer.com

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INTRODUCTION

The purpose of this document is to provide instructions to depository banks in North Carolina holding Public Deposits regarding compliance with providing additional security (collateralization) over and above what is provided by the Federal Deposit Insurance Corporation (“FDIC”). Financial institutions in North Carolina serving as official depositories for public funds, as well as the public depositors of those funds, are subject to statutory and regulatory requirements regarding the collateralization of certain public deposits. This document references the North Carolina Administrative Code pertaining to the collateralization requirements, as well as a general explanation of the Code. In the event of any conflict or ambiguity between the Code and the general explanation provided here, the Code governs.

In addition to the statutory and regulatory requirements, Statement No. 40 of the Governmental Standards Board requires the financial statements of applicable governmental units to disclose any conditions of under-collateralization as of balance sheet date, and any significant violations of collateral requirements at any time during an audit period. Discussions in this document do not include the requirements for collateralization of U.S. Treasury Funds (further information on this topic may be found under Treasury Tax and Loan Accounts, within 31 CFR Part 202, 203 and 214 with information available at <http://fms.treas.gov/collateral/index.html>.) This document does not cover collateral requirements of Trust Departments operated by commercial banks. (N.C. General Statute 36A-63 provides information for Trust departments of State-chartered banks and 12 CFR Reg 9 Section 9.10 provides information for federally chartered institutions.)

Any forms contained in this pamphlet may be duplicated.

Questions pertaining to the contents of this handbook may be addressed to:

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COLLATERALIZATION RULES FOR PUBLIC DEPOSITS

AUTHORIZATION

North Carolina General Statutes authorize and require the State Treasurer and the State and Local Government Finance Division to prescribe such rules as may be necessary to regulate the collateralization of certain public deposits in North Carolina banks and savings institutions. These rules are codified in the North Carolina Administrative Code - Title 20, Chapter 7 - and may be found on the website of the Office of Administrative Hearings at www.oah.state.nc.us.

The Federal Deposit Insurance Corporation's ("FDIC") Policy Statement specifies the requirements for creation of an enforceable security interest in any pledged collateral securities. This policy statement clarifies the FDIC's policy on enforcing the requirements of Section 11(e) of the Federal Deposit Insurance Act, as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). The amendments to the rules also incorporate compliance with any requirements of the North Carolina Uniform Commercial Code in regards to the creation of an enforceable security interest.

PUBLIC DEPOSITS

Public deposits covered under the rules include the deposits of:

Entity	Statutory Reference
State Treasurer	N.C. Gen. Stat. § 147-69 and -79
N.C. State Bar	N.C. Gen. Stat. §84-34.1
University System Receipts	N.C. Gen. Stat. §§116-36.1(g)(7) and 36.1(h)
Local School Administrative Units	N.C. Gen. Stat. §§ 115C-443 and -444
Community Colleges	N.C. Gen. Stat. §§ 115D-55(b) and -56(b)
Local ABC Boards	N.C. Gen. Stat. § 18B-702(d)
Local Governmental Units	N.C. Gen. Stat. §§159-30 and -31

Examples of Local Governmental Units include:

Cities and Towns	Regional Hospitals
Counties	Area Mental Health Centers
Public Hospitals	District Health Departments
Public Airports	Drainage Districts
Public Libraries	District Water and Sewer Authorities
Public Housing Authorities	Councils of Governments

CLERKS OF SUPERIOR COURT

Funds administered by the 100 Clerks of Superior Court are public deposits, but not public deposits as defined under 20 N.C. Admin. Code 7, and therefore are not subject to the rules followed on behalf of other N.C. public depositors. However, collateralization of these deposits is required by N.C. Gen. Stat. §7A-112. The securities which may be used to collateralize the Clerks of Superior Court's deposits are limited to bonds of the United States government or of the State of North Carolina, or of counties and municipalities of North Carolina whose bonds have been approved by the Local Government Commission. The North Carolina Administrative Office of the Courts ("AOC") establishes the rules pertaining to the Clerks' deposits and has created security agreements (Form AOC-A-911M) and escrow agent agreements (Form AOC-A-912M) for use by the Clerks. The forms are available either from the Clerk's Office or AOC. (Please note, since the Clerks are not subject to 20 N.C. Admin. Code 7, their deposit accounts are not eligible to be included in the State Treasurer's Pooling Method of collateralization and must be collateralized under the Dedicated Method of collateralization.)

FUNDS NOT SUBJECT TO COLLATERALIZATION

Being a public agency in itself does not necessarily require or allow that funds of the agency be collateralized: there must be a specific statute authorizing the collateralization of deposits of a public agency. In the absence of express statutory authorization, any such pledge would likely be considered as invalid and be of no value to the pledgee in the event of a bank failure. Before pledging its assets to a public entity, a financial institution should be assured of its authority to do so. This document includes a listing of the statutory references which may be used to determine whether a particular entity's deposits may be collateralized. A resolution passed by an entity's board of directors or trustees, in the absence of express statutory authority, is not sufficient authority to require/provide collateralization. Any entity (public, private, or nonprofit) requiring an institution to pledge securities in the absence of statutory authority is relying upon false security.

PUBLIC DEPOSITOR DEFINITION

The term "public depositor" as defined in the rules can be either the State Treasurer in the case of State funds, or the person charged with the custody of public deposits of a participating unit. This is the official custodian of funds for a "public unit account" recognized by the Federal Deposit Insurance Act (12 C.F.R. 330.14). Rule .0102 of the N.C. Administrative Code establishes the definitions of the applicable terms for the Collateralization of Public Deposits program.

PUBLIC DEPOSIT DEFINITION

The term "public deposit" is defined in the rules as the deposits of all public depositors, and consists of two categories—demand and time deposits. Demand deposits are defined as the

non-interest-bearing accounts, typically used as operating funds. Time deposits are generally any deposits on which interest is paid and include savings accounts, negotiable order of withdrawal (“NOW”) accounts, money market deposit accounts (“MMDA”), certificates of deposit, and savings certificates. Although NOW and MMDA accounts are normally reported on certain federal reporting forms as transactional accounts along with checking accounts, for insurance coverage purposes they are considered time deposits (12 C.F.R. 204.2 and 12 C.F.R. 329.1). Repurchase agreements, accounts with the North Carolina Capital Management Trust and State Treasurer Short Term Investment Fund (“STIF”) accounts are not deposits to be insured or secured since they are considered investments. Rule .0102 of the N.C. Administrative Code establishes the definitions of the applicable terms for the Collateralization of Public Deposits program.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) INSURANCE COVERAGE

FDIC regulations (12 C.F.R. 330.14) provide insurance coverage to the official custodian of a public unit (public depositor), not to the public unit itself. Additionally, in the case of public unit accounts, the FDIC allows \$250,000 of coverage on all demand deposits combined and a separate \$250,000 on all time deposits combined. It is therefore possible for a public depositor to have up to \$500,000 of total insurance coverage. In addition, the FDIC has instructed banks to provide unlimited coverage on all Demand Deposit/non-interest bearing deposits through December 31, 2012. 20 N.C. Admin. Code 07 .0202 further designates the amount of collateral that is required to be pledged by the depository in excess of what is provided by the FDIC.

NOTIFICATION OF NEW ACCOUNTS

Upon the opening of every new deposit account, it is the responsibility of the public depositor to notify the depository either orally or in writing that the deposits of said deposit account are subject to the collateralization rules(20 N.C. Admin. Code 07 .0103). The depository should develop procedures to identify public deposits when new accounts are opened to ensure that the balances may be included in determining total balances to be collateralized (on a timely basis).

ANNUAL NOTIFICATION REPORT

To assist the depository in keeping its records current, as of June 30 of each year, the public depositor is required to provide each depository Form INV-91 “Notification of Public Deposit,” which lists the current account names and numbers of all its public deposit accounts (20 N.C. Admin. Code 07 .0103). The public depositor sends a duplicate copy of this completed form to the State Treasurer’s Office to assist in the monitoring process. Blank forms are supplied to the public depositors by the State and Local Government Finance Division.

DEPOSITORY’S RESPONSIBILITY

It is the responsibility of the depository to provide adequate collateral for all deposits in excess of any insurance coverage for all accounts which it has been notified are public deposit

accounts. If the depository has not received notification for a questionable account, it may forward the public depositor a written request for verification of the deposit. For further information, please reference 20 N.C. Admin. Code 07 .0103 and .0107 which describe the depository's responsibility of maintaining adequate collateral and notifying the depository of any discrepancy in reporting of eligible deposits.

METHODS OF SECURING DEPOSITS

There are two methods a depository may choose to secure its uninsured public deposit accounts. The first is the "Dedicated Method," under which each public depositor's deposits are secured separately, and which requires the establishing of a separate escrow account for each public depositor. The second is the "Pooling Method," under which all public depositors' deposits are secured through a single escrow account established by the depository with the State Treasurer for the benefit of the State and the participating units. These two methods of collateralization are described in 20 N.C. Admin. Code 7 .0104. The Pooling Method is generally beneficial for a depository that has a large number of public depositors and wishes to limit its dealings to only the State Treasurer's Office in administering the collateralization process. A side-by-side comparison of the two methods is provided later in this document for illustrative purposes.

PUBLIC HOUSING AUTHORITIES EXCEPTION

The deposits of Public Housing Authorities are not eligible to be included in the Pooling Method. These deposits are to 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 ("HUD"). Such restrictions generally allow only certain types of eligible collateral, such as U.S. treasury and agency securities. 20 N.C. Admin. Code 07 .0104b discusses the exemption of Public Housing Authorities from the Pooling Method.

SELECTION OF METHOD - DEPOSITORY'S CHOICE

The depository may select only one method for all public depositors. It cannot use one method for some units and another method for others (with the exception that Public Housing Authorities must be included only under the Dedicated Method). Unless the depository has taken the necessary action to initiate the Pooling Method, by default it is under the Dedicated Method. 20 N.C. Admin Code 07 s .0104 and .0105 describe the conditions under which the depository may participate in either the Dedicated or Pooling Method.

MONITORING RESPONSIBILITY

If a depository has chosen the Dedicated Method, the responsibility for monitoring the depository's compliance is that of the public depositor who is required to maintain a record of all securities pledged at all times. Other responsibilities include ensuring that the proper

security agreements and escrow agent agreements have been executed, and approving the pledging and releasing of all securities as requested by the depository. If a depository has chosen the Pooling Method, the State Treasurer is responsible for monitoring the depository's compliance. The depository is required to provide certain reports to the State Treasurer, quarterly and annually, (and sometimes monthly) to accommodate this central monitoring process. The State and Local Government Finance Division periodically publishes a listing of all depositories that have chosen the Pooling Method. 20 N.C. Admin. Code 07 .0104, .0202, .0304, .0305, .0501, .0502 and .0505 provide further details on the various responsibilities of monitoring the collateral and compliance with the rules of collateralization.

EXERCISING THE POOLING METHOD

It is assumed that a depository will adhere to the Dedicated Method of collateralization unless the bank has taken the following steps to request participation in the Pooling Method. 20 N.C. Admin. Code 07 .0105 outlines the required steps for a depository to convert from the Dedicated Method to the Pooling Method. The steps include submission of the following documentation to the State Treasurer:

- 1) Letter of intent indicating the desired effective date to begin participation in the Pooling Method
- 2) Executed Form INV-93A, "Security Agreement with Resolution"
- 3) Executed INV-93B, "Escrow Agent Agreement" (Not required if the Federal Reserve Bank is the escrow agent)
- 4) Completed Form INV-99, "Selected Financial Data Report" (A low capital adequacy ratio may preclude the approval to exercise the Pooling Method)
- 5) Completed Form INV-97, "Annual Report on Public Deposits"

The above referenced forms may be found on the State Treasurer's website.

In addition, a completed Form INV-92, "Election of Pooling Method," must be sent to each of its public depositors notifying them of its election. A duplicate of this form must be provided to the State Treasurer.

The depository may pledge the required collateral to the State Treasurer in one of two ways, making such indication on the Form INV-92. When submitting Form INV-92, the depository should also include Form INV-95, "Request for Collateral Pledge/Release," requesting the public depositor to authorize either:

- 1) The release of any collateral currently pledged to the public depositor to be simultaneously repledged to the State Treasurer, or

- 2) The release of any collateral without substitution, as the depository has previously pledged sufficient collateral to the State Treasurer

SECURITY AGREEMENTS

The FDIC's Policy Statement specifies the requirements which must be met in order to create an enforceable security interest in pledged collateral securities. One of these requirements is that a security agreement be executed in duplicate between the public depositor and the depository, and that it be approved by a resolution passed by either the depository's board of directors or loan committee. The security agreement to be executed depends upon which method the depository has chosen, as (discussed in 20 N.C. Admin. Code 07 .0305:

Pooling Method — INV93A

Dedicated Method — INV94A

ESCROW AGENT AGREEMENTS

Eligible escrow agents include the Federal Reserve Bank, the Federal Home Loan Bank, and any commercial bank having authority to conduct a trust business, provided the bank is not an affiliate of the depository. For each commercial escrow agent used, and in the case of the Federal Home Loan Bank, an "Escrow Agent Agreement" is to be executed in triplicate by each of the parties. Securities pledged with the Federal Reserve Bank are in accordance with Circular 16 of the Federal Reserve Bank and therefore do not require an escrow agent agreement. However, the Federal Reserve Bank's signature cards must be executed. The escrow agent agreement to be executed depends upon which method the depository has chosen, as further outlined in 20 N.C. Admin 07 .0301, .0302 and .0303:

Pooling Method — INV93B

Dedicated Method — INV94B

CALCULATING AMOUNT OF COLLATERAL TO BE PLEDGED

Under the Dedicated Method, the amount of required collateral shall be based on actual current balances (both time and demand). Under the Pooling Method, the amount for each public depositor's time deposits shall be based on actual current balances, while the amount for demand deposits shall be based on an approved averaging method. All securities shall be valued at current market value, and at a minimum shall equal 100 percent of the amount required to be collateralized. However, the public depositor in the case of the Dedicated Method or the State Treasurer in the case of the Pooling Method may, at his discretion, require the market value of the securities pledged to be 10 percent greater than the 100 percent minimum, should he feel circumstances indicate an apparent risk (20 N.C. Admin. Code 07 .0202(e)) Additionally, any depository using the Pooling Method which does not maintain a 10

percent excess, although not required to maintain such cushion, must submit reports (Form INV-96) to the State Treasurer on a monthly basis as opposed to a quarterly basis (20 N.C. Admin. Code 07 .0505(3)). For further reference, please see N.C. Admin Code 07 .0202 and .0505.

SCHOOL FUNDS

The amount of collateral required to be pledged for deposits of individual schools within the same system are to be calculated separately from the deposits of the school administrative unit. The school finance officer of the administrative unit is considered the “official custodian” under FDIC regulations and is therefore allowed the maximum insurance coverage on each type of deposit, both demand and time. However, the treasurers of the individual schools are each allowed only \$250,000 for both demand and time accounts combined. The school finance officer of the school administrative unit is charged with the public depositor’s responsibility of administering the collateral requirements for the funds of all schools within the system. This responsibility includes notifying the depository of openings of new accounts, filing the required reports, and in the case of the Dedicated Method, monitoring the collateral needs within one collateral account in the name of the school administrative unit. As such, he/she is the person to whom all the required collateral is to be pledged under the Dedicated Method. In the case of the Pooling Method, where the depository is required to submit an annual report on public deposits, the report should indicate the required deposit and insurance amounts for the school administrative unit’s accounts, separate from the total amounts for each individual school within the system.

PLEDGING/RELEASING COLLATERAL

All pledges, releases and substitutions shall be initiated by Form INV-95, “Request for Collateral Pledge/Release.” The form should be prepared in triplicate, the original for the escrow agent (addressee), the duplicate for the pledgee (either State Treasurer or public depositor) and the triplicate for the depository (preparer). If the transaction involves a release or a substitution, the original should be forwarded to the pledgee for approval before being sent to the escrow agent for action. The form should indicate the percentage of excess collateral pledged after the transaction is completed. Escrow agents must provide the pledgee a written advice of all completed transactions. 20 N.C. Admin. Code 07 .0304 sets forth the conditions for the pledging and release of collateral.

REPORTING UNDER DEDICATED METHOD

A depository using the Dedicated Method is required to report to each public depositor the total par and market values of securities pledged at the end of each calendar quarter. As of June 30, the depository must annually file with each public depositor Form INV-98, “Annual/Quarterly Report on Collateral for Public Deposits.” This report includes a detailed listing of collateral securities pledged at each escrow bank for that public depositor. The public

depositor may request that this report be filed more frequently, and this form may be used to accommodate the quarterly reporting. More frequent reporting is generally appropriate where securities with periodic principal reductions are pledged. 20 N.C. Admin. Code 07 .0501 outlines the conditions for quarterly reporting under the Dedicated Method.

REPORTING UNDER POOLING METHOD

A depository using the Pooling Method is required to file INV-96, "Quarterly Report on Public Deposits," with the State Treasurer at the end of each calendar quarter. This report summarizes all accounts secured and the collateral pledged to cover the accounts. Along with the quarterly report, the depository must file INV-99, "Selected Financial Data," which contains financial data from the quarterly Call Report. The depository may elect to file Form INV-96/99 which is a combination report of Form INV-95 and INV-99.

As of June 30 of each year a depository is required to file with the State Treasurer INV-97, "Annual Report on Public Deposits," and INV-98, "Annual/Quarterly Report on Collateral for Public Deposits." These two reports provide the detail figures supporting the summary figures provided on the quarterly report. Report INV-98 may be requested by the State Treasurer to be filed more frequently quarterly). More frequent reporting is generally appropriate whenever securities which have periodic principal reductions are pledged. 20 N.C. Admin. Code 07 .0502 describes the conditions for reporting under the Pooling Method.

SELECTED FINANCIAL DATA REPORT

A depository using the Pooling Method must file an INV-99, "Selected Financial Data Report," with the State Treasurer quarterly as referenced above. Additionally, any depository using the Dedicated Method and which has State funds on deposit, must also file this report with the State Treasurer quarterly. Rules .0501 and .0504 indicate that a bank participating in the Collateralization of Public Deposits program, regardless of method chosen, must submit the INV-99 annually.

MONTHLY REPORTING

Because monitoring of a depository using the Pooling Method is periodic in nature, and the calculation of demand account balances is based on averages, depositories are encouraged to provide a cushion of excess collateral. Therefore, monthly reporting will be required for depositories maintaining less than a 10 percent excess cushion. This monthly reporting requirement can be avoided by maintaining 10 percent excess collateral at all times. In addition, where a depository is repeatedly late in filing its quarterly report or files a report with a material error, that depository will be required to report on a monthly basis. Such monthly reporting directives will be issued by the State Treasurer and will be effective for a period of six months, after which time the depository may resume quarterly reporting. However,

subsequent violations may extend the monthly reporting requirement. 20 N.C. Admin. Code 07 .0505 allows the State Treasurer to require additional reporting at the discretion of the Office.

SURETY BONDS

Surety bonds with a corporate surety may be substituted in lieu of part or all of the collateral securities required to be pledged. 20 N.C. Admin. Code 07 .0203 outlines the conditions which must be met if a surety bond is to be implemented.. Eligible providers of surety bonds must be listed in Circular 570, published annually, as of July 1, by the United States Department of the Treasury. An insurance company desiring to offer surety services must submit the surety bond to the State Treasurer for prior approval. For additional information and to learn more about the conditions for the use of surety bonds, please contact Banking Operations.

SUMMARY OF APPLICABLE STATUTES

N.C. Gen. Stat. § 147-68 To receive and disburse moneys.

It is the duty of the Treasurer to receive all moneys which shall from time to time be paid into the treasury of this State; and to pay all warrants legally drawn on the Treasurer.

N.C. Gen. Stat § 147-69 Deposits of State funds in banks and savings and loan associations regulated.

Banks and savings and loan associations having State deposits shall furnish to the Auditor of the State, upon the Auditor's request, a statement of the moneys which have been received and paid by them on account of the treasury. The Treasurer shall keep in the Treasurer's office a full account of all moneys deposited in and drawn from all banks and savings and loan associations in which the Treasurer may deposit or cause to be deposited any of the public funds, and these accounts shall be open to the inspection of the Auditor. The Treasurer shall sign all checks, and no depository bank or savings and loan association shall be authorized to pay checks not bearing the Treasurer's official signature. The Treasurer is authorized to use a facsimile signature machine or device in affixing the Treasurer's signature to warrants, checks or any other instrument the Treasurer is required by law to sign. The Commissioner of Banks, the bank examiners, and the savings and loan examiners, when so required by the State Treasurer, shall keep the State Treasurer fully informed at all times as to the condition of all these depository banks and savings and loan associations, so as to fully protect the State from loss. The State Treasurer shall, before making deposits in any bank or savings and loan association, require ample security from the bank or savings and loan association for these deposits.

N.C. Gen. Stat. § 147-79(a) Deposits of the State Treasurer

The amount of funds deposited by the State Treasurer in an official depository shall be adequately secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner as may be prescribed by rule or regulation of the State Treasurer with the approval of the Governor and Council of State. No security is required for the protection of funds remitted to and received by a bank or trust company designated by the State Treasurer under G.S. 142-1 and acting as paying agent for the payment of the principal of or interest on bonds or notes of the State.

N.C. Gen. Stat. § 159-31(b) Deposits of Local Government Units and Public Authorities

The amount of funds on deposit in an official depository or deposited at interest pursuant to G.S. 159-30(b) shall be secured by deposit insurance, surety bonds, letters of credit issued by a Federal Home Loan Bank, or investment securities of such nature, in a sufficient amount to protect the local government or public authority on account of deposit of funds made therein, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or

employee may be held liable for any losses sustained by a local government or public authority because of the default or insolvency of the depository. No security is required for the protection of funds remitted to and received by a bank or trust company acting as fiscal agent for the payment of principal and interest on bonds or notes, when the funds are remitted no more than 60 days prior to the maturity date.

N.C. Gen. Stat. § 84-34.1 Deposit of the North Carolina State Bar

Deposits of the North Carolina Bar, its boards, agencies, and committees shall be secured as provided in G.S. 159-31(b).

N.C. Gen. Stat. § 115C-444(b) Deposits of Local School Administrative Units or Individual Schools

Money on deposit in an official depository or deposited at interest pursuant to G.S. 115C-443(b) shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local school administrative unit because of default or insolvency of the depository.

N.C. Gen. Stat. § 115D-58.7(b) Deposit of Community Colleges

Money deposited in an official depository or deposited at interest pursuant to G.S. 115D-58.6(b) shall be secured in the manner prescribed in G.S. 159-31(b). When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by an institution because of the default or insolvency of the depository.

N.C. Gen. Stat. § 18B-702(d) Deposits of ABC Boards

A local board may deposit moneys at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b).

SUMMARY OF GENERAL RESPONSIBILITIES

Public Depositor:

1. Upon opening an account with a depository, determine the method used by the depository to collateralize the public deposits. Stay informed of any change in methods as the result of conversions to a different method or as the result of merger of depositories.
2. Notify each depository whenever a new deposit account is opened or a certificate of deposit is purchased, that the account is a public deposit account subject to the collateralization requirements.
3. File a "Notification of Public Deposit" (INV-91) with each depository, with a copy to the State Treasurer, as of June 30 of each year.
4. In the case of depositories using the Dedicated Method, determine that a "Security Agreement With Resolution" (INV-94A) is executed with each. (Resolution must be passed by depository's board of directors or loan committee.)
5. In the case of depositories using the Dedicated Method, determine that an "Escrow Agent Agreement" (INV-94B or Federal Reserve Bank's signature card) is executed with each.
6. In the case of depositories using the Dedicated Method, maintain a record of the securities pledged by each depository for monitoring purposes. If securities having periodic principal pay downs are pledged, consideration should be given to record their decline in "outstanding principal" balances.
7. In the case of the Dedicated Method, periodically check the market values of the collateral pledged to verify at least 100 percent of the amount required to be collateralized. The frequency of checking the market values would depend upon the amount of excess collateral pledged, the types of collateral pledged, and the volatility of market conditions.
8. In the case of depositories using the Dedicated Method, sign "Request for Collateral Pledge/Release" forms (INV-95), authorizing the release or substitution of collateral whenever requested by the depository, provided sufficient collateral remains pledged after the transaction is effected.

9. In the case of depositories using the Dedicated Method, report the amount of collateral pledged by each depository on the semi-annual reports (LGC-203) filed with the Local Government Commission.
10. In the case of depositories using the Pooling Method, be aware of the possibility of monthly reporting requirements and respond in a timely fashion where required.

Depository:

1. Collateralize all eligible uninsured deposits of public depositors through an eligible escrow agent(s), using either the Dedicated Method or the Pooling Method.
2. Ensure that the proper security agreement with resolution (INV-93A or INV-94A) is executed with the State Treasurer or with each public depositor. (Resolution must be passed by depository's board of directors or loan committee.)
3. Ensure that the proper escrow agent agreement (INV-93B, INV-94B, or Federal Reserve Banks signature card) is executed for each escrow account.
4. Pledge only securities that are eligible collateral, and in adequate amounts.
5. Maintain valuation of all securities pledged at market value, including the monitoring of securities which may have periodic principal paydowns.
6. Provide a means for relaying information to the home office from each branch office which may receive notifications of public deposits from public depositors.
7. Annually (as of June 30), verify the "Notification of Public Deposit" (INV-91) received from each public depositor; determine that all reported accounts are being monitored for collateralization.
8. Use the "Request for Collateral Pledge/Release" form (INV-95) when instructing the escrow agent to pledge, release, or substitute collateral securities. The pledgee must approve all releases and substitutions before being sent to the escrow agent. Cusip numbers must be used when describing the securities.
9. File the required quarterly and annual reports in a timely manner.

North Carolina Department of State Treasurer/ Banking Operations:

1. In the case of depositories using the Pooling Method, determine that a “Security Agreement with Resolution” (INV-93A) is executed with each depository. (Resolution must be passed by depository’s board of directors or loan committee.)
2. In the case of depositories using the Pooling Method, determine that an “Escrow Agent Agreement” (INV-93 or Federal Reserve Bank signature card) is executed with each escrow agent.
3. For monitoring purposes, maintain a record of the securities pledged by each depository having an escrow account for the State Treasurer.
4. When the State Treasurer is the pledgee, sign “Request for Collateral Pledge/Release” forms (INV-95), authorizing the release or substitution of collateral whenever requested by the depository, provided sufficient collateral remains pledged after the transaction is effected.
5. Maintain a file by depository of all “Election of Pooling Method” (INV-92) forms received from depositories electing the Pooling Method, indicating the participating units included in the depository’s collateral pool.
6. Maintain a current file of the “Notification of Public Deposit” (INV-91) forms received from the public depositors to assist in monitoring purposes.
7. Respond to requests from public depositors’ independent auditors confirming whether or not a public depositor’s deposits in a depository using the Pooling Method are secured through the State Treasurer, and whether or not adequate collateral is (was) pledged.
8. For monitoring purposes, receive and review quarterly and annual reports from depositories using the Pooling Method.

Escrow Agent:

1. Provide escrow account services in accordance with the escrow agent agreements and ensure that the proper agreement (INV-93B, INV-94B, or Federal Reserve Bank signature card) has been executed for each escrow account.
2. Take appropriate action upon receiving a “Request for Collateral Pledge/Release” (Form INV-95) from a depository. The pledgee (State Treasurer or public depositor) must authorize all releases and substitutions of all securities, including the release of proceeds from maturities.
3. Send written advices of all completed transactions on a timely basis to the pledgee (State Treasurer or public depositor).

Public Depositor’s Independent Auditor:

1. Verify whether the depositories used by the public depositor are under the Dedicated Method or Pooling Method by checking the most recent list published by the Local Government Commission.
2. Verify for each depository using the Dedicated Method that the proper security agreement (INV-94A) has been executed and that it has been approved by a resolution of the depository’s board of directors or loan committee.
3. Verify for each depository using the Dedicated Method that the proper escrow agreement (INV-94B or Federal Reserve Bank signature card) has been executed, that an adequate amount of eligible securities is pledged, and that the public depositor has a record of the securities pledged.
4. As of June 30 of each year, send to the State Treasurer a letter for each depository securing the public depositor’s deposits under the Pooling Method, asking for confirmation of the public depositor’s inclusion in the depository’s pool of collateral established with the State Treasurer (only if deemed necessary). Since the annual reports due from the depositories are not received by the State Treasurer’s Office until after July 31, the Treasurer’s Office normally cannot respond to the confirmations until sometime in August.

North Carolina Department of State Treasurer/ State and Local Government Finance Division:

1. Periodically provide participating units a listing of all depositories which have elected the Pooling Method.
2. Provide the participating units blank "Notification of Public Deposit" (INV-91) forms, to be filed with the depositories as of June 30 annually.
3. Provide guidance to the participating units in fulfilling their collateralization responsibilities.
4. Monitor compliance by certain participating units (governmental units) through the review of semi-annual LGC-203 reports.

ELIGIBLE COLLATERAL SECURITIES

The following types of securities are eligible for pledging as security provided that the securities are 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 obligation 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 on any of its bonds or notes;
- (5) General obligation 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) Prerefunded 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 is either: (a) 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 obligation;
- (12) Letters of credit issued by a Federal Home Loan Bank. (Senate Bill 417, 1999 Session)

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

N.C. Administrative Code 20 NCAC Chapter 7 .0203 allows corporate surety to be substituted in lieu of part or all of the collateral required.

COMPARISON OF METHODS FOR COLLATERALIZING PUBLIC DEPOSITS

	Dedicated Method	Pooling Method
Responsibility for Collateralization	Depository	Depository
Responsibility for Monitoring Depository	Public Depositor	Banking Operations
Security Agreement with Resolution	With Public Depository (INV-94A)	With Banking Operations (INC-93A)
Escrow Agreement for Commercial Escrow or Federal Home Loan Bank	With Public Depositor (INV-94B)	With Banking Operations (INV-93B)
Escrow Agent Agreement for Federal Reserve Bank	Not Required/ Use Signature Card	Not Required/ Use Signature Card
Signature Card for Federal Reserve Bank	Signed by Public Depositor	Signed by State Treasurer
Quarterly Report on Deposits by Bank	Not Required	Sent to Banking Operations (INV-96)
Quarterly Bank Report on Collateral	Sent to Public Depositor (Letter)	Sent to Banking Operations (INV-98)
Selected Financial Data from Bank	Required Only if State Funds	Sent to Banking Operations (INV-99)
Annual Report on Public Deposits at Bank as of June 30	Not Required	Sent to Banking Operations (INV-97)
Annual Report on Collateral Pledged by Bank as of June 30	Sent to Public Depositor	Sent to Banking Operations (INV-98)
Request for Collateral Pledge/ Release Form (INV-95)	Authorization by Public Depositor	Authorization by Banking Operations
Reports Required if Deposits Do Not Exceed FDIC Coverage	NO	YES
Notification of Public Deposit by Depositor (INV-91)	Filed by June 30 with Depository with a Copy to State Treasurer	Filed by June 30 with Depository with a Copy to Banking Operations
Election of Pooling Method Form (INV-92)	Not Required	Filed by Depository with Depositor and Copy to Banking Operations
Time Deposit Calculations	Actual Daily Balances	Actual Daily Balances
Demand Deposit Calculations	Actual Daily Balances	Average Daily Balances
Value of Securities Pledged	Market Value	Market Value
Minimum Amount of Collateral	100%	110% to Avoid Monthly Reporting

FORMS AND REPORTS FOR PROCEDURAL COMPLIANCE

FORM INV-91 “NOTIFICATION OF PUBLIC DEPOSIT”

Prepared in duplicate as of June 30 of each year by each public depositor to identify public deposits to the depository. One copy is sent to the depository, and one copy is sent to the State Treasurer.

FORM INV-92 “ELECTION OF POOLING METHOD”

Prepared in duplicate by a depository converting from the Dedicated Method to the Pooling Method to notify each public depositor of its intention to secure all public deposits through the State Treasurer. One copy is sent to the public depositor, and one copy is sent to the State Treasurer.

FORM INV-93A “SECURITY AGREEMENT WITH RESOLUTION (POOLING METHOD)”

Executed in duplicate by the State Treasurer and the depository and used to create an enforceable security interest in any collateral pledged by the depository to the State Treasurer. Agreement must be approved by a resolution passed by the depository’s board of directors or loan committee.

FORM INV-93B “ESCROW AGENT AGREEMENT (POOLING METHOD)”

Executed in triplicate by the State Treasurer, the depository, and the escrow bank agent and used by a depository to establish an escrow account to secure the deposits of all public depositors through the State Treasurer. Applicable to commercial escrow banks and the Federal Home Loan Bank, but not the Federal Reserve Bank.

FORM INV-94A “SECURITY AGREEMENT WITH RESOLUTION (DEDICATED METHOD)”

Executed in duplicate by the public depositor and the depository and used to create an enforceable security interest in any collateral pledged by the depository to the public depositor. Agreement must be approved by a resolution passed by the depository’s board of directors or loan committee.

FORM INV-94B “ESCROW AGENT AGREEMENT (DEDICATED METHOD)”

Executed in triplicate by the depository, the escrow bank agent, and the public depositor and used by a depository using the Dedicated Method to establish an escrow account to secure the public depositor’s deposits in a separate escrow account. Applicable to commercial escrow banks and the Federal Home Loan Bank, but not the Federal Reserve Bank.

FORM INV-95 “REQUEST FOR COLLATERAL PLEDGE/RELEASE”

Prepared in triplicate by the depository to instruct the escrow agent of all pledges, releases, and substitutions to effect for each escrow account. The original is for the escrow agent, the

duplicate for the pledgee (State Treasurer or public depositor) and the triplicate for the depository. In the case of a release or substitution, the form must be signed by the pledgee before being acted upon by the escrow agent.

FORM INV-96 “QUARTERLY REPORT ON PUBLIC DEPOSITS”

Prepared quarterly by all depositories using the Pooling Method. Report is due 30 days following the end of each calendar quarter, and is to be filed with the State Treasurer. Report is required to be filed monthly if the depository does not maintain at least 10 percent excess collateral.

FORM INV-97 “ANNUAL REPORT ON PUBLIC DEPOSITS”

Prepared by all depositories using the Pooling Method. Report is a listing of all public depositors, and for each depositor, the amounts on deposit for demand and time accounts, and the insurance amount on each type. Report is to be dated June 30 and is due by July 31.

FORM INV-98 “ANNUAL/QUARTERLY REPORT ON COLLATERAL FOR PUBLIC DEPOSITS” —

Prepared by all depositories having any public deposits requiring collateralization. Report is a listing of the securities pledged as collateral with each escrow agent. Depositories using the Dedicated Method forward the reports to the individual public depositors, and depositories using the Pooling Method forward reports to the State Treasurer. Report is to be dated June 30 and is due by July 31. The report may be requested to be filed more frequently (quarterly).

FORM INV-99 “SELECTED FINANCIAL DATA”

Prepared by all depositories using the Pooling Method and those depositories using the Dedicated Method which have State funds. Report is due 30 days following the end of each calendar quarter, and is to be filed with the State Treasurer. Report contains data extracted from its quarterly call report.

FORM INV-96/99 “COMBINED QUARTERLY REPORT ON PUBLIC DEPOSITS AND SELECTED FINANCIAL DATA”

May be used in lieu of filing separate forms INV-96 and INV-99.

NOTE: The depository may substitute its own formats for Forms INV-95, INV-97, and INV-98 provided the formats are substantially the same in the content and order of presentation.

These forms may be found on the State Treasurer’s website: www.nctreasurer.com.