



STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER

State and Local Government Finance Division
and the Local Government Commission

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Memorandum # 1113

TO: Local Government Officials and their Independent Auditors

FROM: Sharon Edmundson, Director, Fiscal Management

DATE: February 17, 2009

SUBJECT: Public Deposits

Recently several questions have been raised concerning the classification of public deposits held in bank accounts across the State. Specifically we have been asked if public deposits that fall below the FDIC insurance limits have to be identified as public funds.

G.S. 159-31 requires that all public deposits be secured. Commercial accounts are not secured by collateralization and are protected by FDIC insurance only. By coding an account of a local government or public authority anything but as public funds the bank risks violation of the General Statutes any time deposits exceed FDIC limits. This action exposes the unit of government to the risk of loss should a bank fail. Depositors that hold uninsured or uncollateralized deposits become general creditors of the institution in the event of a bank failure. Units of government holding accounts not identified as public should report a statutory violation as part of their annual audit.

There also is the requirement set forth in the Administrative Code that all public deposits be identified as such regardless of amount (NC Administrative Code 20 NCAC 7.0103). Again, this is required in order to protect the depositors. Funds identified as public must either be insured or collateralized in order to protect the unit of government from loss in the event of a bank failure.

Public funds generally earn a lower rate of return than their commercial counterparts, due primarily to the costs associated with collateralizing those accounts. Particularly in the current economic environment, security of deposits should be top priority of local government finance officials. Monitoring of collateral by both the banks and the Department of State Treasurer can only be successful if accounts are properly identified as public funds.

Local government officials may be held personally liable for any damages caused by willful violation of the Local Budget and Fiscal Control Act. According to North Carolina State law [G.S. 159-181], any finance officer, governing board member, or other officer or employee of any local government who willfully fails or refuses to perform any duty imposed on him/her by The Local Government Budget and Fiscal Control Act is guilty of a misdemeanor and, upon conviction, shall be fined and must forfeit his/her office and shall be personally liable in a civil action for all damages suffered by the unit of government or the holders of any of its obligations.

If you have any questions please contact Sara Shippee at (919) 807-2356 or via email at sara.shippee@nctreasurer.com or Ken Wease at (919) 807-2391 or via email at ken.wease@nctreasurer.com.