CHAPTER 42

DEPOSITS IN GENERAL

§421. Applicability of chapter; tax exemption

1. Applicability. The sections of this chapter govern deposits or accounts in financial institutions subject to the provisions of this Title.
[PL 1997, c. 398, Pt. I, §11 (AMD).]

2. Tax exemption. All interest-bearing deposits or accounts of whatever type in financial institutions subject to the provisions of this Title are exempt from municipal taxation to said institution, and to the depositors or members of such institution.
[PL 1975, c. 500, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §I11 (AMD).

§421-A. General deposit powers

Unless otherwise prohibited by state law, a financial institution may establish the types and terms, including the minimum and maximum amounts that it may accept and the frequency and computation method of paying interest, of deposits that it solicits and accepts. A financial institution may refuse deposits at its pleasure and a financial institution may pledge or hypothecate any of its assets as security for deposits. [PL 1997, c. 398, Pt. I, §12 (NEW).]

SECTION HISTORY

PL 1997, c. 398, §I12 (NEW).

§422. Insurance of deposits or accounts

1. Requirement. A financial institution organized under the laws of this State or a branch of an out-of-state financial institution authorized to do business in this State shall take any action necessary to have its deposits or accounts insured by the FDIC. For purposes of this section, a branch of an out-of-state financial institution does not include a branch of a foreign bank that is not eligible for insurance of accounts by the FDIC.
[PL 1997, c. 398, Pt. I, §13 (AMD).]

2. Transition period.

[PL 1981, c. 155, §1 (RP).]

3. Failure to obtain insurance.

[PL 1981, c. 155, §1 (RP).]

4. Applicable law. A financial institution that has its deposits or accounts insured pursuant to this section shall comply with all statutes and regulations governing the insurance of deposits or accounts by the FDIC. This section may not be construed as repealing, modifying or impairing any powers, duties, rights or responsibilities under the provisions of this Title of the superintendent or of the financial institution so insured.
[PL 1997, c. 398, Pt. I, §13 (AMD).]

5. Exception. A financial institution organized pursuant to Part 12 is not required to have its deposits or accounts insured by the FDIC.
[PL 1997, c. 398, Pt. I, §13 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 670 (AMD). PL 1977, c. 621 (AMD). PL 1981, c. 155, §1 (AMD). PL 1995, c. 628, §22 (AMD). PL 1997, c. 398, §I13 (AMD).

§422-A. Cash reserves on deposits and accounts

1. Requirement. A financial institution organized under the laws of this State and a credit union organized under the laws of this State shall maintain reserves on deposits or accounts as required from time to time by the Federal Reserve Act, Section 19(b), as amended, and any regulations promulgated under it; except that the amount of reserves shall be 100% of the requirements, notwithstanding the Federal Reserve Act, Section 19(b)(8) of that Act.
[PL 1981, c. 155, §2 (NEW).]

2. Transition period. Reserves held by a financial institution or credit union to meet the requirements of this section must be in the form prescribed by the Federal Reserve Act, Section 19(c), as amended, and any regulations promulgated under it.

A. [PL 1997, c. 398, Pt. I, §14 (RP).]

B. [PL 1997, c. 398, Pt. I, §14 (RP).]

C. [PL 1997, c. 398, Pt. I, §14 (RP).]

D. [PL 1997, c. 398, Pt. I, §14 (RP).]
[PL 1997, c. 398, Pt. I, §14 (AMD).]

3. Assessment for deficiency. Any deficiency in the cash reserve established pursuant to this section may be subject to an assessment for such period of time as the deficiency may exceed 2% of the required reserves. Any such penalty may be assessed at a rate not to exceed 10% per year.
[PL 1981, c. 155, §2 (NEW).]

4. Failure to make up deficiency. If any financial institution or credit union fails to make up a reserve deficiency with a corresponding excess reserve in the reserve computation period immediately following the period in which the deficiency occurred, the superintendent may declare that no loans or investments be made except those loans secured by deposit accounts or investments made in bonds or other obligations issued by the United States or any of its instrumentalities, or issued or guaranteed by this State or issued by any of its instrumentalities, agencies or political subdivisions which is not in default on any of its outstanding funded obligations.
[PL 1981, c. 155, §2 (NEW).]

5. Reports. The superintendent may require any financial institution or credit union to furnish such reports as he deems appropriate to properly supervise compliance with the requirements of this section.
[PL 1981, c. 155, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 155, §2 (NEW). PL 1997, c. 398, §I14 (AMD).

§423. Demand deposits

(REPEALED)

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1981, c. 155, §3 (AMD). PL 1981, c. 198 (AMD). PL 1981, c. 553, §2 (AMD). PL 1981, c. 709 (AMD). PL 1983, c. 34 (AMD). PL 1997, c. 398, §I15 (RP).

§424. NOW accounts

(REPEALED)

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 666, §§19-A (AMD). PL 1981, c. 155, §4 (AMD). PL 1997, c. 398, §I16 (RP).

§425. Computation of dividends and interest on deposits and accounts

(REPEALED)

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §I17 (RP).

§426. Savings deposits or accounts: written notice of withdrawal

1. Withdrawal notice may be required. A financial institution may at any time, by resolution of its governing body, require written notice by a savings depositor not to exceed 90 days prior to the repayment of deposits or accounts, or may require similar notice before repaying deposits in excess of $50, or certain classes of savings deposits or accounts.
[PL 1997, c. 398, Pt. I, §18 (AMD).]

2. Deposit not payable during waiting period. In the event such notice is required, no such deposit or account shall be due or payable during the required period after the notice shall have been given. If not withdrawn within 15 days after the expiration of the required period following notice, such deposit or account shall not be due and payable under that notice.
[PL 1975, c. 500, §1 (NEW).]

3. Deposits prior to expiration of waiting period. The institution may receive any deposit or deposits before expiration of the required period, subject to such regulations as may be imposed by the superintendent.
[PL 1975, c. 500, §1 (NEW).]

4. Interest earned until actual withdrawal. The written notice of withdrawal required pursuant to this section does not constitute a withdrawal from the deposit or account until the amounts noticed have been actually withdrawn by the depositor giving such written notice, and interest is earned on these amounts for the period prior to actual withdrawal.
[PL 1997, c. 398, Pt. I, §18 (AMD).]

5. Exception.

[PL 1997, c. 398, Pt. I, §19 (RP).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1997, c. 398, §§I18,19 (AMD).

§427. Deposit or account transactions

1. Minor's deposits or accounts. Money deposited in the name of a minor is his property, and a financial institution may, in the discretion of the officer making or authorizing the payment, pay the same to such minor, to his order or to his guardian. The receipt of such minor, or his guardian, for any such payment is a valid release and shall discharge the institution.
[PL 1975, c. 500, §1 (NEW).]

2. Fiduciary deposits or accounts.

A. Whenever a deposit is made in trust, the name and address of the person for whom it is made, or the purpose for which the trust is created, shall be disclosed in writing to the institution, and the deposit shall be credited to the depositor as trustee for such person or purpose. [PL 1975, c. 500, §1 (NEW).]

B. Whenever a deposit is made by a person designated on the records of a financial institution as a fiduciary, it shall be conclusively presumed, in all dealings between the institution and the fiduciary or any other persons with respect to such deposit, that such fiduciary has power to invest money in the institution, and to withdraw the same or any part thereof, and to transfer his deposit to any other person. The receipt or acquittance of such fiduciary shall fully exonerate and discharge the institution from all liability to any person having any interest in such deposit and the institution shall not be under any duty to see to the proper application of the trust property. [PL 1979, c. 540, §8 (AMD).]

C. Subject to the provisions of Title 18-C, section 6-222, upon the death or disability of any fiduciary, the value of such deposit or account may be paid, at the option of the institution, and in the absence of notice of the existence and terms of a trust, either to the executor, administrator, conservator or guardian of such fiduciary, or to any substituted fiduciary, or to the person, if any, who is designated on the records of the institution as the beneficiary of such deposit, if of the age of 15 years or upwards, or to the guardian or parent or person standing in loci parentis to such person if under the age of 15 years. Subject to the provisions of Title 18-C, section 6-226, the receipt or acquittance of any such person fully exonerates and discharges the institution from all liability to any person having any interest in such deposit, and the institution is not under any duty to see to the proper application of the trust property. [PL 2017, c. 402, Pt. C, §18 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. C, §18 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Fiduciary transactions by check.

A. If a check drawn or endorsed by a fiduciary is received by a drawee financial institution, including a check for payment in cash or for the personal credit of such fiduciary, such institution may assume, without inquiry, that the fiduciary has acted within the scope of his authority. [PL 1975, c. 540, §1 (NEW).]

B. As used in this subsection, "fiduciary" includes a trustee under any trust, express or implied, resulting or constructive, or an executor, administrator, guardian, conservator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate. "Person" includes 2 or more persons having a common interest. For the purposes of this subsection, such institution may rely upon, though it need not require, a writing certified by the clerk or secretary of a corporation as to such officer. [PL 1975, c. 540, §1 (NEW).]

C. Nothing contained in this subsection shall be deemed to modify or otherwise affect Title 11, section 1-201, subsection 25 or Title 11, section 3-304, nor to relieve such institution from any liability imposed upon it by law to the extent of any payment or amount which such institution may receive for its benefit from any of such checks or funds represented thereby. [PL 1975, c. 540, §1 (NEW).]

[PL 1975, c. 540, §1 (NEW).]

4. Joint deposits or accounts.

A. When a deposit has been made or is made in any financial institution authorized to do business in this State in the names of 2 or more persons, payable to either, or payable to either or the survivor, such deposit, or any part thereof, or the interest or dividends thereon may be paid to any or either of said persons, whether the other or others be living or not, or to the legal representative of the survivor of said persons if proofs of death are presented to the financial institution showing that the decedent was the last surviving party or if there is clear and convincing evidence that no right of survivorship was intended at the time the account was created. Subject to the provisions of Title 18-C, section 6-226, the receipt or acquittance of the persons to whom said payment is so made is

a valid and sufficient release and discharge to such financial institution for any payment so made. [PL 2017, c. 402, Pt. C, §19 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. All such deposits or accounts, whenever opened or issued, payable to either or the survivor including interest and dividends, in the name of the same persons in any financial institution within this State, in the absence of fraud or undue influence, upon the death of one of such persons, become the property of the parties as provided in Title 18-C, section 6-212. [PL 2017, c. 402, Pt. C, §20 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. C, §§19, 20 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Pledge of joint deposits or accounts. The pledge of all or part of a deposit or account in joint tenancy signed by that person or those persons who are authorized in writing to make withdrawals from the deposit or account shall, unless the terms of the deposit or account provide specifically to the contrary, be a valid pledge and transfer of that part of the deposit or account pledged, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the deposit or account.

[PL 1975, c. 500, §1 (NEW).]

6. Power of attorney over deposits or accounts. Any financial institution may continue to recognize the authority of an attorney authorized in writing to manage or to make withdrawals either in whole or in part from the account of a depositor until it receives written notice of the revocation of his authority. For the purposes of this subsection, written notice of the death or adjudication of incompetency of such depositor shall constitute written notice of revocation of the authority of his attorney. No institution shall be liable for damages by reason of any payment made pursuant to this subsection.

[PL 1975, c. 500, §1 (NEW).]

7. Transfer of deposit or account. A depositor may transfer, absolutely or conditionally, that depositor's deposit or account to any other person, subject to any provisions affecting such deposit or account pursuant to this chapter by a written assignment in a form approved by the institution, accompanied by delivery of the evidence of the deposit or account. Evidence of the deposit or account means the membership certificate, share certificate, account book, passbook or any other evidence of the deposit or account that has been issued in connection with such deposit or account. Every such transfer of a deposit or account is considered to include the deposit or account and the evidence of the deposit or account issued in connection with the deposit or account. An absolute transfer is not effective against an institution until such written assignment and the accompanying evidence of the deposit or account are delivered to the institution with a request that it complete such transfer upon its records. A conditional transfer is not effective against an institution unless and until it actually receives notice of the conditional transfer in writing.

This subsection does not apply to the creation, perfection or enforcement of a security interest in a deposit or account other than an assignment of a deposit or account in a consumer transaction as defined in Title 11, section 9-1102, subsection 26.

[PL 2001, c. 211, §11 (AMD).]

8. Payment of decedent's deposit or account.

A. Except as provided in paragraph B, if any depositor shall die leaving in a financial institution a deposit or account on which the balance due him shall not exceed $1,000, and no personal representative shall be appointed, the institution may pay the balance of such deposit or account to the surviving spouse, next of kin, funeral director or other preferred creditor or creditors who may appear to be entitled thereto. For any payments so made, the institution shall not be held liable to the decedent's personal representative thereafter appointed unless the payment shall have been made within 6 months after the decedent's death and an action to recover the amount shall have been commenced within one year after the date of payment. [PL 1979, c. 540, §12 (NEW).]

B. Notwithstanding the provisions of paragraph A, upon presentation of an affidavit under Title 18-C, section 3-1201, a financial institution shall pay the balance of any deposit or account left by a deceased depositor to the depositor's successor under the provisions of Title 18-C, sections 3-1201 and 3-1202. Such payments under this paragraph take precedence over payments under paragraph A to the extent of the balance of the deposits or accounts of the deceased depositor at the time the affidavit is presented. [PL 2017, c. 402, Pt. C, §21 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. C, §21 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

9. Lost evidences of deposits or accounts.

A. If a financial institution receives a notice in writing that an account book or passbook or other evidence of a deposit or account issued by said institution is lost, together with a request that a duplicate evidence of deposit or account be issued, such notice and request being signed by the appropriate person or persons as provided, the institution, at the expiration of a period of 10 days from the receipt of such notice if the missing evidence is not sooner presented, may issue a duplicate evidence of deposit or account to the person or persons signing said notice and request, and the delivery of such duplicate evidence shall relieve the institution from all liability on account of the missing original evidence of deposit or account. Such notice and request shall be signed in the following manner:

(1) If the evidence of deposit or account was issued to a single depositor, then by him, an officer in the event of a corporation, or by a guardian, conservator, trustee, executor or administrator; or

(2) If the evidence of deposit or account was issued to 2 or more depositors, then by all such depositors then surviving, or by the last survivor of such depositors; provided that a guardian or conservator shall sign for any of the foregoing persons respecting whom he has been appointed. [PL 1979, c. 663, §41 (AMD).]

B. If a depositor shall lose a nonnegotiable certificate of deposit or certificate of account, paragraph A shall apply, except that the depositor shall provide an affidavit in writing to the institution, in lieu of the notice provided for in paragraph A, stating that such certificate issued by the institution is lost and could not be found after thorough search. [PL 1987, c. 402, Pt. A, §87 (AMD).]

[PL 1987, c. 402, Pt. A, §87 (AMD).]

10. Adverse claim to deposit or account. Except as provided in Title 11, section 4-405, in Title 14, section 4751 and in Title 18-C, sections 6-102 and 6-226, notice to a financial institution authorized to do business in this State of an adverse claim to a deposit or account standing on its books to the credit of any person is not effectual to cause that institution to recognize the adverse claimant, unless the adverse claimant either procures a restraining order, injunction or other appropriate process against the institution from a court of competent jurisdiction in a civil action to which the person to whose credit the deposit or account stands is made a party or executes to that institution, in a form and with sureties acceptable to the institution, a bond indemnifying the institution from all liability, loss, damage, costs and expenses for and on account of the payment of such adverse claim or the dishonor of checks or other orders of the person to whose credit the deposit or account stands on the books of the institution.

This subsection does not apply to the creation, perfection or enforcement of a security interest in a deposit or account other than an assignment of a deposit or account in a consumer transaction as defined in Title 11, section 9-1102, subsection 26.

[PL 2017, c. 402, Pt. C, §22 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

11. Payment of orders. Any financial institution may pay any order drawn by any person who has funds on deposit to meet the same, notwithstanding the death of the drawer in the interval of time between signing such order and its presentation for payment, when said presentation is made within 30

days after the date of such order; and at any subsequent period, provided the institution has not received actual notice of the death of the drawer.
[PL 1975, c. 500, §1 (NEW).]

12. Superintendent's authority to permit withdrawals. Except as expressly limited by other provisions of this Title, the superintendent may authorize a financial institution or institutions to permit the withdrawal of funds on deposit by depositors, account holders or members of said institution or institutions, in such manner or by such methods as the superintendent may determine appropriate under the circumstances.
[PL 1995, c. 628, §23 (AMD).]

13. Notice on opening certain accounts.
[MRSA T. 9-B §427, sub-§13 (RP).]

13-A. Notice on opening certain accounts. A signature card or other document establishing a multiple-party account, as defined in Title 18-C, section 6-201, must contain a clear and conspicuous printed notice to the depositor that on the depositor's death the balance in the account will belong to the surviving party. At the time a multiple-party account is established or at the time a single-party account is converted to a multiple-party account with a financial institution, the document establishing the account or adding another party must include for each party to the account the question, "Do you intend for the sum remaining upon your death to belong to the surviving party or parties? Yes or No." The question required by this subsection must be answered in writing on the form by each party to the account prior to opening the account. The answer provided on the form required by this subsection does not have any effect on any legal presumption or inference available in any civil or criminal matter.
[PL 2019, c. 1, §2 (NEW); PL 2019, c. 1, §5 (AFF).]

14. Applicability. This section applies to financial institutions authorized to do business in this State and credit unions authorized to do business in this State.
[PL 2003, c. 322, §15 (NEW).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 571, §1 (AMD). PL 1975, c. 733, §1 (AMD). PL 1975, c. 770, §51 (AMD). PL 1979, c. 540, §§8-13-A (AMD). PL 1979, c. 663, §41 (AMD). PL 1987, c. 402, §A87 (AMD). PL 1995, c. 628, §23 (AMD). PL 1999, c. 218, §20 (AMD). PL 2001, c. 211, §§11,12 (AMD). PL 2003, c. 322, §15 (AMD). PL 2007, c. 88, §1 (AMD). PL 2017, c. 390, §1 (AMD). PL 2017, c. 402, Pt. C, §§18-23 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 1, §§1, 2 (AMD). PL 2019, c. 1, §5 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§428. Inactive deposits or accounts

All moneys in unclaimed accounts in each financial institution authorized to do business in this State must be disposed of according to Title 33, chapter 45. [PL 2019, c. 498, §4 (AMD).]

SECTION HISTORY

PL 1975, c. 500, §1 (NEW). PL 1975, c. 771, §112 (AMD). PL 1977, c. 707, §2 (RPR). PL 2001, c. 211, §13 (AMD). PL 2019, c. 498, §4 (AMD).

§429. Residential mortgage escrow accounts

1. Definition. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Escrow account" means any account established by agreement between a mortgagor and mortgagee under which the mortgagor pays to the mortgagee sums to be used to pay taxes or insurance premiums. [PL 1983, c. 679, §2 (RPR).]

B. "Mortgagee" means any financial institution authorized to do business in this State, as defined in section 131, subsection 17-A, any credit union authorized to do business in this State, as defined in section 131, subsection 12-A, any supervised lender, as that term is defined in Title 9-A, section 1-301, subsection 39, and their assignees. [PL 1983, c. 679, §2 (RPR).]

[PL 1983, c. 679, §2 (RPR).]

2. Payment of interest or dividends. Each mortgagee holding funds of a mortgagor in a required escrow account on behalf of itself or another mortgagee for the payment of taxes or insurance premiums with respect to mortgaged property located in this State shall pay the mortgagor, at least quarterly, dividends or interest on the account at a rate of not less than 50% of the 1-year Treasury Note rate or rate of a comparable instrument if the 1-year Treasury Note is not offered, as published in a financial newspaper of national circulation, as of the first business day of the year in which the quarterly interest or dividend is paid. The dividends or interest paid under this subsection may not be reduced by any charge for service or maintenance of the account.

[PL 2003, c. 263, §2 (AMD).]

3. Computing and crediting interest. Under subsection 2, interest must be computed on the daily balances in the account from the date of receipt to the date of disbursement and must be credited to the account as of the last business day of each quarter of a calendar or fiscal year. If such an account is closed or discontinued before the last business day of a quarter of a calendar or fiscal year, interest must be computed and credited as of the day the account is closed or discontinued. For the purposes of calculating interest under subsection 2, the mortgagee may take into account debit balances resulting from advances and may elect to compute interest on the basis of the actual number of days in each quarter and year, or on the basis of a 30-day month and a 360-day year. At least once a year, the mortgagee shall give the mortgagor a statement showing the interest credited on the escrow account during the period that the statement covers.

[PL 2003, c. 263, §2 (AMD).]

4. Scope. The requirements of this section apply only to mortgages on owner-occupied residential property consisting of not more than 4 dwelling units, located in this State.

[PL 1983, c. 679, §2 (RPR).]

5. Exemptions. This section does not apply to mortgage transactions under which the payment of interest on escrow accounts is prohibited by federal law.

[PL 1983, c. 679, §2 (RPR).]

6. Application. The requirements of this section shall apply to any funds in an escrow account on October 1, 1985, and to any funds deposited in an escrow account after that date.

[PL 1985, c. 327 (AMD).]

SECTION HISTORY

PL 1979, c. 426 (NEW). PL 1983, c. 679, §2 (RPR). PL 1985, c. 327 (AMD). PL 2003, c. 263, §2 (AMD).

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