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**November 2012**

**To: Chief Fiscal Officers**

**From: Division of Local Government and School Accountability**

**Subject: Deposit Placement Programs**

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**Please provide copies of this bulletin to others who may need this information.**

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Chapter 128 of the Laws of 2012 amended sections 10 and 11 of the General Municipal Law (GML) to authorize local governments to use “reciprocal deposit” programs for their deposits and investments. The purpose of the amendment is to provide an additional option to local governments for obtaining coverage from the Federal Deposit Insurance Corporation (FDIC) to secure their public deposits and investments.

GML requires local governments to designate one or more “banks” or “trust companies,” located and authorized to do business in this State, for the deposit of public funds. GML also requires that all public deposits in excess of the amount insured by the FDIC must be secured by, among other alternatives, a pledge of “eligible securities.” Currently, FDIC coverage is \$250,000 per custodian per insured bank for time and savings deposits, and \$250,000 per custodian per insured bank for demand deposits.<sup>1</sup>

Under the amendment, local governments may authorize their designated depositary bank or trust company to arrange for the “redeposit” of the local government’s funds, for the account of the local government, in one or more “banking institutions,” through a “deposit placement program.”<sup>2</sup> According to the Memorandum in Support of the amendment, in a deposit placement program, an FDIC-insured bank or trust company divides a local government’s deposits into multiple deposits, all under the \$250,000 FDIC limit, and then deposits in that amount are made into other FDIC-insured banking institutions, thereby increasing the available FDIC coverage. At the same time, each of the banking institutions into which a piece of the original deposit was made makes a “reciprocal deposit” back into the bank or trust company that holds the local government’s original deposit. Because the cost of FDIC coverage is

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<sup>1</sup> For additional information with respect to FDIC coverage for “public unit” accounts, see “Deposit Insurance for Accounts Held by Government Depositors” at [www.fdic.gov/deposit/deposits/FactSheet.html](http://www.fdic.gov/deposit/deposits/FactSheet.html).

<sup>2</sup> GML § 10(2)(a)(ii). “Banking institution” is defined for this purpose as any bank, trust company, savings bank, savings and loan association, or branch of a foreign banking corporation the deposits of which are insured by the Federal Deposit Insurance Corporation, which is incorporated, chartered, organized or licensed under the laws of this state or any other state or the United States (Banking Law § 9-r).

generally lower than the cost of alternative forms of security acceptable for local governments under GML, the intent of the amendment is to permit an alternative that may reduce the costs of securing local government deposits.

The amendment sets forth certain conditions that a deposit placement program must meet, including the following:

- The local government's depository bank or trust company must serve as custodian for the local government for the redeposited funds.
- The local government funds held in the depository bank or trust company in excess of FDIC coverage, pending redeposit, must be properly secured in accordance with the GML.
- The full amount of the redeposited funds, plus any accrued interest, must be covered by the FDIC.
- At the same time of the redeposit, the local government's depository bank or trust company must receive an amount at least equal to the amount of the local government's funds redeposited.

Similar changes were made to GML relating to investments by local governments in special time deposit accounts and certificates of deposit.<sup>3</sup> As with local government deposits, GML requires that these investments, to the extent they are in excess of the amount insured by the FDIC, must be secured by, among other alternatives, a pledge of "eligible securities." Under the amendment, local governments have the option of securing these investments in a deposit placement program meeting similar conditions to those stated above for deposits of public funds.

Local governments should review their investment policies and written agreements with their banks and trust companies before using the new options to ensure that use of these options will be consistent with their policies and, if necessary, amend the policies. Also, local governments, with the assistance of their attorneys as appropriate, should review the written security agreements entered into with their banks and trust companies to ensure that the agreements address the new options and meet all legal requirements. This review should include making sure that all deposits and investments are secured with FDIC insurance coverage or, for amounts in excess of FDIC coverage, by other means as set forth in GML. Local governments should periodically review the agreements, minimally as part of the annual review of their written investment policies.

If you have questions pertaining to this bulletin, please contact the State Comptroller's regional office that serves your local government. Legal questions can be directed to OSC's Legal Division at 518-474-5586.

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<sup>3</sup> GML § 11(2)(a)(2) sets forth the specific conditions for investments.