

CHAPTER 286

AN ACT concerning banks serving as custodians or fiscal agents of certain State assets and amending and supplementing P.L.1977, c.281 and P.L.1954, c.22.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1954, c.22 (C.52:18A-8.1) is amended to read as follows:

C.52:18A-8.1 Fiscal agent or custodian for funds and other assets; agreements.

1. a. The State Treasurer is hereby authorized and empowered to enter into agreement from time to time, and on the terms and for the compensation, if any, the State Treasurer deems appropriate, with any one or more of the national banks and the banks authorized by this State to carry on a banking business, which the State Treasurer may select, to act as fiscal agent for the State or as custodian for funds, securities, or other assets of the State and as fiscal agent or as custodian for any pension agency, fund or system maintained in whole or in part by the State. Each bank selected by the State Treasurer to act as custodian or fiscal agent shall have a physical presence in this State in the form of a principal office or branch office and shall employ New Jersey residents. Each bank selected by the State Treasurer may use recognized depositories or clearinghouses for the funds, securities or other assets of the State or may use other banks as sub-custodians or sub-fiscal agents for these assets, provided that in every case each bank selected by the State Treasurer shall retain primary responsibility for these assets.

b. If a bank selected by the State Treasurer delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be responsible for the services delegated to it to the same degree as the primary custodian or primary fiscal agent and shall maintain accounting records and be otherwise held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

c. A bank selected by the State Treasurer as a primary custodian or fiscal agent which delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, shall not be relieved of its fiduciary duties and responsibilities.

C.52:18A-8.1a Definitions used in C.52:18A-8.1.

2. As used in section 1 of P.L.1954, c.22 (C.52:18A-8.1):

"Branch office" means an office at a fixed location other than a principal office, however designated, at which any business that may be conducted in a principal office of a bank may be transacted.

"Clearinghouse" means an association of banks or other payors regularly settling mutual claims, accounts and other items such as securities, payments and income.

"Custodian," "primary custodian," "fiscal agent" and "primary fiscal agent" means a bank which is selected by the State Treasurer to perform fiduciary functions in the maintenance of public trust funds and assets.

"Depository" means a separately incorporated bank or association of banks which serves as a temporary trustee for securities on behalf of a custodian, sub-custodian, fiscal agent or sub-fiscal agent.

"Principal office" means the headquarters of a bank which is its principal place of business.

"Sub-custodian" or "sub-fiscal agent" means a bank, located in any state or country, to which a primary custodian or primary fiscal agent may delegate its duties and responsibilities.

3. Section 1 of P.L.1977, c.281 (C.52:18A-90.4) is amended to read as follows:

C.52:18A-90.4 State of New Jersey Cash Management Fund.

1. a. Notwithstanding the provisions of section 2 of P.L.1970, c.270 (C.52:18A-90.2), the Director of the Division of Investment may, subject to the approval of the State Investment Council and the State Treasurer, establish, maintain and operate a common trust fund to be known as the State of New Jersey Cash Management Fund in which may be deposited the surplus public moneys of the State, its counties, municipalities and school districts and the agencies or authorities created by any of these entities. This fund shall be considered a legal depository for public moneys and shall satisfy the requirements in that regard of section 1 of

P.L.1956, c.174 (C.52:18-16.1) and N.J.S.40A:5-14.

b. The State Treasurer shall be the custodian of the fund and may receive public moneys paid into the fund by any other custodian of public moneys for the purpose of holding and investing said moneys. In that capacity, he may enter into an agreement with any one or more of the national banks and the banks authorized by this State to carry on a banking business, as he may select, for the custodianship of securities held in the fund and for recording the amounts deposited and withdrawn by each participant, the investment transactions entered into, and the balance to each participant's credit each day. A bank selected by the State Treasurer as custodian pursuant to this section shall have a physical presence in this State in the form of a principal office or branch office and shall employ New Jersey residents. Each bank selected by the State Treasurer may use recognized depositories or clearinghouses for the securities held in the fund or may use other banks as sub-custodians or sub-fiscal agents for these securities, provided that in every case each bank selected by the State Treasurer shall retain primary responsibility for these securities.

c. If a bank selected by the State Treasurer delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be responsible for the services delegated to it to the same degree as the primary custodian or primary fiscal agent and shall maintain accounting records and be otherwise held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

d. A bank selected by the State Treasurer as a primary custodian or fiscal agent which delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, shall not be relieved of its fiduciary duties and responsibilities.

e. The State Treasurer may promulgate such rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as he deems necessary for the efficient administration of the State of New Jersey Cash Management Fund, including but not limited to, (1) the specification of minimum amounts which may be deposited in the fund and minimum periods of time for which deposits shall be retained in the fund; (2) creation of a reserve for losses; (3) provision for payment of administration expenses from its earnings; and (4) distribution of the earnings in excess of such expenses or allocation of losses to the several participants in a manner which equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in the custody of the fund.

f. The Director of the Division of Investment may invest the public moneys constituting the State of New Jersey Cash Management Fund in the same types of investments and subject to the same limitations provided for the investment of funds in the State Treasury. The director shall be responsible for the adequacy of the accounting services provided by the custodian bank and shall maintain such accounting records as may be required for that purpose.

C.52:18A-90.4a Definitions used in C.52:18A-90.4.

4. As used in section 1 of P.L.1977, c.281 (C.52:18A-90.4):

"Branch office" means an office at a fixed location other than a principal office, however designated, at which any business that may be conducted in a principal office of a bank may be transacted.

"Clearinghouse" means an association of banks or other payors regularly settling mutual claims, accounts and other items such as securities, payments and income.

"Custodian," "primary custodian," "fiscal agent" and "primary fiscal agent" means a bank which is selected by the State Treasurer to perform fiduciary functions in the maintenance of public trust funds and assets.

"Depository" means a separately incorporated bank or association of banks which serves as a temporary trustee for securities on behalf of a custodian, sub-custodian, fiscal agent or sub-fiscal agent.

"Principal office" means the headquarters of a bank which is its principal place of business.

"Sub-custodian" or "sub-fiscal agent" means a bank, located in any state or country, to which a primary custodian or primary fiscal agent may delegate its duties and responsibilities.

5. This act shall take effect immediately.

Approved December 27, 2001.