

**DEPARTMENT OF FINANCE AND ADMINISTRATION -  
POLICY 21** *(Revised 03/08/99)*

***Collateral Deposited with the State***

**Applicable State Law**

1. Tennessee Code Annotated, Section 8-5-110 - designates the State Treasurer as the custodian of all negotiable instruments deposited as collateral with the state or any department thereof, and requires the State Treasurer to be exclusively responsible for the safekeeping thereof. Each department head or other person in state government, having in his possession negotiable collateral documents, is required to turn the same over to the State Treasurer and to receive an itemized receipt for the collateral. This section further requires the respective department or agency head to ensure that any such collateral submitted to the State Treasurer in the form of securities is fully registered as to principal interest in such manner as to identify the state and the agency or department as holder of such collateral and to also identify the individual or concern placing such collateral.

**Applicability and Effective Date**

2. This policy statement shall be applicable to all state agencies and departments except colleges and universities. This policy statement is effective upon issuance until amended, rescinded, or superseded by law. For items already on deposit with the Treasurer, state agencies and departments must determine if the items on hand are in compliance with this policy and if not, ensure compliance within six months of the effective date of this policy.

**Introduction and Background Information**

3. This policy statement has been established to ensure that all negotiable instruments deposited as collateral with the state is turned over to the State Treasurer for safekeeping and that departments and agencies adhere to established procedures when transacting collateral business of any type with the state treasurer.

4. The particular law authorizing or requiring a state department or agency to receive negotiable instruments as collateral governs the ultimate disposition of the collateral. For instance, the law may require negotiable instruments to be deposited by insurance companies for the benefit of policyholders or creditors. The collateral deposited is held in trust by the state for those policyholders and creditors, and if necessary, the funds will be distributed to them in accordance with the applicable law. However, the registration of the collateral should be in accordance with Tennessee Code Annotated, Section 8-5-110 to ensure the collateral can be effectively negotiated and to ensure the individual or concern pledging the collateral cannot negotiate the securities without the department's prior approval.

## **Definitions**

5. The following definitions are used throughout this policy statement and are presented for informational purposes.

Collateral Securities - A stock, bond, note or other interest in the property of or an enterprise of the issuer or an obligation of the issuer pledged to the state for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. An issuer of collateral may include an agency of the federal government, municipality of the State of Tennessee, or a financial institution.

Letter of Credit - A promise to pay by a financial institution on behalf of a third party.

Negotiable Instrument: Any financial instrument, which can readily be converted to cash.

Receiving Department - A state department or agency that is required to obtain collateral from another party by statute, rule, or procedure.

Registered Security - A security whose owner's name is recorded on the books of the issuer or the issuer's registrar.

Registered Bond - A bond that is recorded in the name of the holder on the books of the issuer's registrar and can be transferred to another owner only when endorsed by the registered owner.

Bearer Bond - A bond that is not registered. In effect, a negotiable instrument payable to the holder and not legally requiring endorsement.

### **Duties of the Receiving Department**

#### **Determination of Appropriate Collateral**

6. It is the duty of each department receiving collateral securities to ensure that such collateral securities are in registered form. It is also the duty of each department to ensure that the collateral securities it receives are the type of securities the department is authorized to accept under the particular law authorizing or requiring the department to demand the deposit of such collateral. In the event the collateral securities are not presented in the proper form, the department must notify the individual or concern pledging the collateral and request that the deficiency be corrected.

## Form of Collateral Registration

7. The collateral securities must be fully registered as to principal and interest in such manner as to identify the state and the appropriate agency or department as holder of such collateral and to also identify the individual or concern placing such collateral. This registration is specifically required in Tennessee Code Annotated, Section 8-5-110. This form of registration is designed to facilitate negotiation of the securities and to protect the agency's or department's rights in the securities.

8. For a physical U.S. Treasury or U.S. agency bill, note, and bond, or a municipal bond:

“ \_\_\_\_\_ “**OR**” Holder, State of Tennessee,  
(Individual or Concern's Name)  
Department or Agency of \_\_\_\_\_.”

**Note:** The registration for these types of securities can be with an “**OR**” instead of an “**AND**” since the department has possession of the securities and the transfer of ownership requires endorsement by the registered owner of the securities. As a result, the department may negotiate the securities by its endorsement alone.

9. If the collateral security is a stock, bond, or other security that requires presentation of the actual document before the funds will be released, the registration should be as described above.

10. For a certificate of deposit (CD) or other savings instrument, the following specific wording is recommended in order to protect the state's interest. The wording must be reproduced in its entirety. An additional example is provided in Exhibit 1 at the end of this document.

“ \_\_\_\_\_ “**AND**” Holder, State of Tennessee  
(Individual or Concern's Name)  
Department/Agency of **OR** State of Tennessee,  
Department/Agency of \_\_\_\_\_.”

The actual certificate of deposit or savings instrument in most instances is not required to be presented in order to receive the funds from the issuing bank. Therefore, the individual or concern pledging the certificate of deposit or savings instrument could receive the funds without prior knowledge or approval of the department. As a result, the department should require the registration to be the individual **AND** the department/agency, “**OR**” the department/agency, as shown above.

11. If the registration of collateral securities differs from those stated above or if the department/agency receives a collateral security not addressed above, the department/

agency should consult with legal counsel to ensure the department's/agency's rights to the securities and that the security registration is in compliance with Tennessee Code Annotated, Section 8-5-110.

### **Delivery to Treasury**

#### **Duties of Departments Upon Delivery**

12. Upon determining that negotiable collateral securities registrations are in proper form, the department/agency must immediately turn the same over to the Treasury Department, Division of Cash Management (hereafter referred to as the *State Treasurer*) and receive an itemized receipt. Each department/agency head must furnish the State Treasurer with a listing of individuals authorized to initiate collateral transactions on behalf of the department/agency, and a list of individuals authorized to pick up collateral from the State Treasurer. The department/agency must update these authorization lists anytime changes occur or at least annually.

#### **Maintenance of Collateral**

13. It is the responsibility of each department/agency depositing negotiable collateral instruments with the State Treasurer to ensure the pledging of sufficient eligible collateral to meet the purposes for which it was received. Under no circumstances shall the State Treasurer be responsible for monitoring the sufficiency of collateral deposited for safekeeping. It is also the responsibility of the department/agency to monitor the maturity of such collateral documents.

#### **Irrevocable Letters of Credit**

14. Although letters of credit should not be delivered to the State Treasurer, the department/agency must obtain on an annual basis an updated letter of credit or documentation from the issuer (i.e., confirmation) that the letter of credit has not expired. This applies to any letters of credit with terms exceeding one year or for any letters of credit that are automatically renewed unless written notice of cancellation is received.

#### **Renewable Certificates of Deposit**

15. For renewable certificates of deposit, the department/agency must obtain documentation that automatically renewable certificates have actually been renewed.

#### **Withdrawal of Collateral from the State Treasurer**

16. The State Treasurer will only release collateral at the department's or agency's request. Only individuals authorized by the department/agency head may request collateral withdrawals and pick up collateral from the State Treasurer.

## **Collateral Reconciliation**

17. The State Treasurer will submit a report to the department/ agency at least annually containing a description of negotiable collateral instruments held by the State Treasurer on behalf of the department/agency. The department/agency must verify this listing annually and notify the State Treasurer of any discrepancies contained in these reports.

## **Duties of the Treasury Department**

### **Safekeeping and Itemized Receipts**

18. The State Treasurer will accept delivery of all negotiable collateral instruments (as defined within this policy) received from any state department or agency. The State Treasurer will hold all such collateral received from state departments and agencies pursuant to Tennessee Code Annotated, Section 8-5-110.

19. The State Treasurer will acknowledge the receipt of all negotiable collateral instruments by issuance of an itemized receipt to the delivering department/agency.

### **Release of Collateral to Department**

20. The State Treasurer will release collateral upon the request of the department or agency. An individual authorized by the department/agency head to make withdrawals must make a written request or the withdrawal will not be allowed. The State Treasurer will only release collateral to individuals authorized by the department/agency to receive collateral.

### **Periodic Reports**

21. The State Treasurer will provide a report to the department/agency at least annually listing current deposits of negotiable collateral securities. Upon receiving notice from a department/agency that a discrepancy(s) exist in the report, the State Treasurer will research the discrepancy(s) and make the appropriate adjustments to the collateral records.

**Approval of the Commissioner of Finance and Administration**

I, John D. Ferguson, hereby approve this policy statement of the Department of Finance and Administration and authorize the actions necessary to implement its requirements.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
John D. Ferguson, Commissioner  
Department of Finance and Administration

**Approval of the Comptroller of the Treasury**

I, John Morgan, hereby approve of this policy statement of the Department of Finance and Administration, and as such agree with and authorize actions necessary to implement its requirements.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
John Morgan, Comptroller  
Office of the Comptroller of the Treasury

**Approval of the State Treasurer**

I, Steve Adams, hereby approve this policy statement of the Department of Finance and Administration, and as such agree with and authorize actions necessary to implement its requirements.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Steve Adams, State Treasurer  
Department of Treasury