

Bulletin B-14-2



TO: All Tennessee State-Chartered Banks with Trust Departments

SUBJECT: Pledging Collateral to Secure Fiduciary Funds Awaiting Investment or Distribution

DATE: January 15, 2014

This Bulletin is being issued to permit state-chartered banks to pledge bank assets to secure fiduciary funds awaiting investment or distribution on the same basis as allowed for national banks. It is intended that this Bulletin will encourage and facilitate prudent risk-mitigation strategies, and will help ensure that state-chartered banks are not at a competitive disadvantage vis-à-vis national banks in this regard.

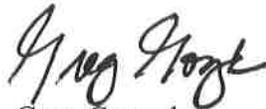
According to 12 § CFR 9.10(b), a national bank may self-deposit funds of a fiduciary account awaiting investment or distribution in its commercial, savings or another department of the bank and, to the extent the funds are not insured by the Federal Deposit Insurance Corporation (FDIC), the bank must set aside certain qualified collateral under the control of appropriate fiduciary officers and employees. Tenn. Code Ann. § 45-2-1003(c) permits a Tennessee state-chartered bank to self-deposit fiduciary funds awaiting investment or distribution in its commercial banking department; however, Tennessee law does not allow the pledging of bank assets to secure uninsured funds.

The Tennessee Banking Act contains a “wildcard” statute, at Tenn. Code Ann. § 45-2-601, which, provides that “any state bank may exercise any power or engage in any activity that it could exercise or engage in if it were a national bank located in Tennessee, subject to regulation by the commissioner for the purpose of maintaining the state bank’s safety and soundness.”

The Tennessee Department of Financial Institutions has determined that it is a safe and sound banking practice for state-chartered banks to secure funds of a fiduciary account that are deposited in the bank’s commercial banking department awaiting investment or

distribution, and are not insured by the FDIC; therefore, the pledging of certain bank assets as collateral to secure such funds is authorized for state-chartered banks under Tenn. Code Ann. § 45-2-601. Collateral acceptable for this purpose is identified under 12 § CFR 9.10(b), and should be set aside under the control of appropriate fiduciary officers and employees.

If you have questions regarding this bulletin, please contact the Program Administrator for Trust, Derek Church, at (615) 741-5961, or Derek.Church@tn.gov.


Greg Gonzales
Commissioner