

# HB2058



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2058

Introduced 2/7/2023, by Rep. Kelly M. Burke

### SYNOPSIS AS INTRODUCED:

30 ILCS 235/2

from Ch. 85, par. 902

Amends the Public Funds Investment Act. Provides that any public agency may invest any public funds, in addition to other investments, in pooled life settlement policies in which each of the underlying insurance policies have no greater than 60-day liquidity and are issued by insurance companies of A-grade investment quality. Provides further requirements concerning the investment of public funds in specified pooled life settlement policies.

LRB103 25199 HLH 51540 b

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Funds Investment Act is amended by  
5 changing Section 2 as follows:

6 (30 ILCS 235/2) (from Ch. 85, par. 902)

7 Sec. 2. Authorized investments.

8 (a) Any public agency may invest any public funds as  
9 follows:

10 (1) in bonds, notes, certificates of indebtedness,  
11 treasury bills or other securities now or hereafter  
12 issued, which are guaranteed by the full faith and credit  
13 of the United States of America as to principal and  
14 interest;

15 (2) in bonds, notes, debentures, or other similar  
16 obligations of the United States of America, its agencies,  
17 and its instrumentalities;

18 (3) in interest-bearing savings accounts,  
19 interest-bearing certificates of deposit or  
20 interest-bearing time deposits or any other investments  
21 constituting direct obligations of any bank as defined by  
22 the Illinois Banking Act;

23 (4) in short-term obligations of corporations

1 organized in the United States with assets exceeding  
2 \$500,000,000 if (i) such obligations are rated at the time  
3 of purchase at one of the 3 highest classifications  
4 established by at least 2 standard rating services and  
5 which mature not later than 270 days from the date of  
6 purchase, (ii) such purchases do not exceed 10% of the  
7 corporation's outstanding obligations, and (iii) no more  
8 than one-third of the public agency's funds may be  
9 invested in short-term obligations of corporations under  
10 this paragraph (4);

11 (4.5) in obligations of corporations organized in the  
12 United States with assets exceeding \$500,000,000 if (i)  
13 such obligations are rated at the time of purchase at one  
14 of the 3 highest classifications established by at least 2  
15 standard rating services and which mature more than 270  
16 days but less than 3 years from the date of purchase, (ii)  
17 such purchases do not exceed 10% of the corporation's  
18 outstanding obligations, and (iii) no more than one-third  
19 of the public agency's funds may be invested in  
20 obligations of corporations under this paragraph (4.5); ~~or~~

21 (5) in money market mutual funds registered under the  
22 Investment Company Act of 1940, provided that the  
23 portfolio of any such money market mutual fund is limited  
24 to obligations described in paragraph (1) or (2) of this  
25 subsection and to agreements to repurchase such  
26 obligations; or.

1           (6) in pooled life settlement policies in which each  
2           of the underlying insurance policies have no greater than  
3           60-day liquidity and are issued by insurance companies of  
4           A-grade investment quality. The maximum amount that may be  
5           invested under this paragraph (6) may be no more than 5% or  
6           less of the total assets in the fund plan or account. The  
7           modified duration of the investment into a particular pool  
8           of life settlements shall not exceed 10 years, and the  
9           premium on the life settlement policies may be  
10           transferable or contractually assigned. The entity that  
11           creates the pool of life settlements must be an  
12           Illinois-registered entity. The provider of the life  
13           settlement policies must be licensed in the State of  
14           Illinois.

15           (a-1) In addition to any other investments authorized  
16 under this Act, a municipality, park district, forest preserve  
17 district, conservation district, county, or other governmental  
18 unit may invest its public funds in interest bearing bonds of  
19 any county, township, city, village, incorporated town,  
20 municipal corporation, or school district, of the State of  
21 Illinois, of any other state, or of any political subdivision  
22 or agency of the State of Illinois or of any other state,  
23 whether the interest earned thereon is taxable or tax-exempt  
24 under federal law. The bonds shall be registered in the name of  
25 the municipality, park district, forest preserve district,  
26 conservation district, county, or other governmental unit, or

1 held under a custodial agreement at a bank. The bonds shall be  
2 rated at the time of purchase within the 4 highest general  
3 classifications established by a rating service of nationally  
4 recognized expertise in rating bonds of states and their  
5 political subdivisions.

6 (b) Investments may be made only in banks which are  
7 insured by the Federal Deposit Insurance Corporation. Any  
8 public agency may invest any public funds in short term  
9 discount obligations of the Federal National Mortgage  
10 Association or in shares or other forms of securities legally  
11 issuable by savings banks or savings and loan associations  
12 incorporated under the laws of this State or any other state or  
13 under the laws of the United States. Investments may be made  
14 only in those savings banks or savings and loan associations  
15 the shares, or investment certificates of which are insured by  
16 the Federal Deposit Insurance Corporation. Any such securities  
17 may be purchased at the offering or market price thereof at the  
18 time of such purchase. All such securities so purchased shall  
19 mature or be redeemable on a date or dates prior to the time  
20 when, in the judgment of such governing authority, the public  
21 funds so invested will be required for expenditure by such  
22 public agency or its governing authority. The expressed  
23 judgment of any such governing authority as to the time when  
24 any public funds will be required for expenditure or be  
25 redeemable is final and conclusive. Any public agency may  
26 invest any public funds in dividend-bearing share accounts,

1 share certificate accounts or class of share accounts of a  
2 credit union chartered under the laws of this State or the laws  
3 of the United States; provided, however, the principal office  
4 of any such credit union must be located within the State of  
5 Illinois. Investments may be made only in those credit unions  
6 the accounts of which are insured by applicable law.

7 (c) For purposes of this Section, the term "agencies of  
8 the United States of America" includes: (i) the federal land  
9 banks, federal intermediate credit banks, banks for  
10 cooperative, federal farm credit banks, or any other entity  
11 authorized to issue debt obligations under the Farm Credit Act  
12 of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto;  
13 (ii) the federal home loan banks and the federal home loan  
14 mortgage corporation; and (iii) any other agency created by  
15 Act of Congress.

16 (d) Except for pecuniary interests permitted under  
17 subsection (f) of Section 3-14-4 of the Illinois Municipal  
18 Code or under Section 3.2 of the Public Officer Prohibited  
19 Practices Act, no person acting as treasurer or financial  
20 officer or who is employed in any similar capacity by or for a  
21 public agency may do any of the following:

22 (1) have any interest, directly or indirectly, in any  
23 investments in which the agency is authorized to invest.

24 (2) have any interest, directly or indirectly, in the  
25 sellers, sponsors, or managers of those investments.

26 (3) receive, in any manner, compensation of any kind

1 from any investments in which the agency is authorized to  
2 invest.

3 (e) Any public agency may also invest any public funds in a  
4 Public Treasurers' Investment Pool created under Section 17 of  
5 the State Treasurer Act. Any public agency may also invest any  
6 public funds in a fund managed, operated, and administered by  
7 a bank, subsidiary of a bank, or subsidiary of a bank holding  
8 company or use the services of such an entity to hold and  
9 invest or advise regarding the investment of any public funds.

10 (f) To the extent a public agency has custody of funds not  
11 owned by it or another public agency and does not otherwise  
12 have authority to invest such funds, the public agency may  
13 invest such funds as if they were its own. Such funds must be  
14 released to the appropriate person at the earliest reasonable  
15 time, but in no case exceeding 31 days, after the private  
16 person becomes entitled to the receipt of them. All earnings  
17 accruing on any investments or deposits made pursuant to the  
18 provisions of this Act shall be credited to the public agency  
19 by or for which such investments or deposits were made, except  
20 as provided otherwise in Section 4.1 of the State Finance Act  
21 or the Local Governmental Tax Collection Act, and except where  
22 by specific statutory provisions such earnings are directed to  
23 be credited to and paid to a particular fund.

24 (g) A public agency may purchase or invest in repurchase  
25 agreements of government securities having the meaning set out  
26 in the Government Securities Act of 1986, as now or hereafter

1 amended or succeeded, subject to the provisions of said Act  
2 and the regulations issued thereunder. The government  
3 securities, unless registered or inscribed in the name of the  
4 public agency, shall be purchased through banks or trust  
5 companies authorized to do business in the State of Illinois.

6 (h) Except for repurchase agreements of government  
7 securities which are subject to the Government Securities Act  
8 of 1986, as now or hereafter amended or succeeded, no public  
9 agency may purchase or invest in instruments which constitute  
10 repurchase agreements, and no financial institution may enter  
11 into such an agreement with or on behalf of any public agency  
12 unless the instrument and the transaction meet the following  
13 requirements:

14 (1) The securities, unless registered or inscribed in  
15 the name of the public agency, are purchased through banks  
16 or trust companies authorized to do business in the State  
17 of Illinois.

18 (2) An authorized public officer after ascertaining  
19 which firm will give the most favorable rate of interest,  
20 directs the custodial bank to "purchase" specified  
21 securities from a designated institution. The "custodial  
22 bank" is the bank or trust company, or agency of  
23 government, which acts for the public agency in connection  
24 with repurchase agreements involving the investment of  
25 funds by the public agency. The State Treasurer may act as  
26 custodial bank for public agencies executing repurchase



1 agreements. To the extent the Treasurer acts in this  
2 capacity, he is hereby authorized to pass through to such  
3 public agencies any charges assessed by the Federal  
4 Reserve Bank.

5 (3) A custodial bank must be a member bank of the  
6 Federal Reserve System or maintain accounts with member  
7 banks. All transfers of book-entry securities must be  
8 accomplished on a Reserve Bank's computer records through  
9 a member bank of the Federal Reserve System. These  
10 securities must be credited to the public agency on the  
11 records of the custodial bank and the transaction must be  
12 confirmed in writing to the public agency by the custodial  
13 bank.

14 (4) Trading partners shall be limited to banks or  
15 trust companies authorized to do business in the State of  
16 Illinois or to registered primary reporting dealers.

17 (5) The security interest must be perfected.

18 (6) The public agency enters into a written master  
19 repurchase agreement which outlines the basic  
20 responsibilities and liabilities of both buyer and seller.

21 (7) Agreements shall be for periods of 330 days or  
22 less.

23 (8) The authorized public officer of the public agency  
24 informs the custodial bank in writing of the maturity  
25 details of the repurchase agreement.

26 (9) The custodial bank must take delivery of and

1 maintain the securities in its custody for the account of  
2 the public agency and confirm the transaction in writing  
3 to the public agency. The Custodial Undertaking shall  
4 provide that the custodian takes possession of the  
5 securities exclusively for the public agency; that the  
6 securities are free of any claims against the trading  
7 partner; and any claims by the custodian are subordinate  
8 to the public agency's claims to rights to those  
9 securities.

10 (10) The obligations purchased by a public agency may  
11 only be sold or presented for redemption or payment by the  
12 fiscal agent bank or trust company holding the obligations  
13 upon the written instruction of the public agency or  
14 officer authorized to make such investments.

15 (11) The custodial bank shall be liable to the public  
16 agency for any monetary loss suffered by the public agency  
17 due to the failure of the custodial bank to take and  
18 maintain possession of such securities.

19 (i) Notwithstanding the foregoing restrictions on  
20 investment in instruments constituting repurchase agreements  
21 the Illinois Housing Development Authority may invest in, and  
22 any financial institution with capital of at least  
23 \$250,000,000 may act as custodian for, instruments that  
24 constitute repurchase agreements, provided that the Illinois  
25 Housing Development Authority, in making each such investment,  
26 complies with the safety and soundness guidelines for engaging

1 in repurchase transactions applicable to federally insured  
2 banks, savings banks, savings and loan associations or other  
3 depository institutions as set forth in the Federal Financial  
4 Institutions Examination Council Policy Statement Regarding  
5 Repurchase Agreements and any regulations issued, or which may  
6 be issued by the supervisory federal authority pertaining  
7 thereto and any amendments thereto; provided further that the  
8 securities shall be either (i) direct general obligations of,  
9 or obligations the payment of the principal of and/or interest  
10 on which are unconditionally guaranteed by, the United States  
11 of America or (ii) any obligations of any agency, corporation  
12 or subsidiary thereof controlled or supervised by and acting  
13 as an instrumentality of the United States Government pursuant  
14 to authority granted by the Congress of the United States and  
15 provided further that the security interest must be perfected  
16 by either the Illinois Housing Development Authority, its  
17 custodian or its agent receiving possession of the securities  
18 either physically or transferred through a nationally  
19 recognized book entry system.

20 (j) In addition to all other investments authorized under  
21 this Section, a community college district may invest public  
22 funds in any mutual funds that invest primarily in corporate  
23 investment grade or global government short term bonds.  
24 Purchases of mutual funds that invest primarily in global  
25 government short term bonds shall be limited to funds with  
26 assets of at least \$100 million and that are rated at the time

1 of purchase as one of the 10 highest classifications  
2 established by a recognized rating service. The investments  
3 shall be subject to approval by the local community college  
4 board of trustees. Each community college board of trustees  
5 shall develop a policy regarding the percentage of the  
6 college's investment portfolio that can be invested in such  
7 funds.

8 Nothing in this Section shall be construed to authorize an  
9 intergovernmental risk management entity to accept the deposit  
10 of public funds except for risk management purposes.

11 (Source: P.A. 102-285, eff. 8-6-21.)