

**OPINION  
73-470**

August 17, 1973           (OPINION)

Mr. H. L. Thorndal  
President  
Bank of North Dakota  
Bismarck, North Dakota 58501

Dear Mr. Thorndal:

This is in response to your letter of July 19, 1973, wherein you request an official opinion of this office relative to Section 6-09-15.2 of the North Dakota Century Code, as amended. You submit the following factual matters and questions for our opinion:

"Enclosed is an offering circular for the Student Loan Marketing Association ('Sallie Mae'), a governmental-sponsored private corporation created by the 1972 amendments to the Higher Education Act of 1965. This offering circular does not spell out, in detail, the operating procedures for this Association. However, it is anticipated that any bank that wishes to either sell or warehouse federally guaranteed student loans may do so, but will probably have to buy a certain number of shares of common stock.

"In anticipation of the creation of this type of government-sponsored agency, I had introduced, in the 1971 Legislature, a bill that created 6-09-15.2, N.D.C.C., which states: 'Bank may invest in certain government agency stocks - Limit. - The Bank of North Dakota may invest in stock of United States government agencies, but such investments shall not exceed two percent of the Bank's combined capital and surplus.

"It was intended that the Bank could buy stock in such government-sponsored agencies, which could ease liquidity problems during periods of deposit contractions. The intention was good, however, in the wording of the bill, it states ' . . . stock of United States government agencies, . . .

"The Student Loan Marketing Association is a United States government-sponsored 'private corporation."

"I respectfully request an Attorney General's Opinion whether or not the Bank of North Dakota may invest in common stock of the Student Loan Marketing Association."

You have also enclosed a copy of the offering circular for our examination.

We would initially note that examination of the enclosed offering circular indicates nothing further of significance as far as this question is concerned other than as you have noted that the same appears to be a United States government-sponsored "private corporation".

We would note the provisions of said Section 6-09-15.2 of the North Dakota Century Code, as amended, which provides as follows:

"BANK MAY INVEST IN CERTAIN GOVERNMENT AGENCY STOCKS - LIMIT. - The Bank of North Dakota may invest in stock of United States government agencies, but such investments shall not exceed two percent of the Bank's combined capital and surplus." (emphasis supplied)

The statute as enacted into law leaves no room for interpretation other than the clear and specified investment, "stock of United States government agencies". The subject entity to which your letter of inquiry addresses itself is clearly a "private corporation" and does not fulfill the statutory specification.

It is the opinion of this office that Section 6-09-15.2 of the North Dakota Century Code, as amended, does not permit the investment in United States government-sponsored private corporations and therefore may not invest in the common stock of the Student Loan Marketing Association.

Sincerely yours,

ALLEN I. OLSON

Attorney General