

OPINION
51-32

September 21, 1951 (OPINION)

COUNTIES

RE: Deposit of Funds

In your letter of September 12, 1951, you ask whether or not a North Dakota county may deposit the funds in a state bank provided such bank pledges securities to cover such deposit.

North Dakota law governing deposits and depositories of public funds is found in chapter 21-04 of the North Dakota Revised Code of 1943. Section 9 of that chapter reads as follows:

"PLEDGE OF SECURITY IN PLACE OF DEPOSITORY BOND. The board of any public corporation may accept from any banking corporation, as security for repayment of deposits, a pledge or securities in lieu of a personal or surety bond. When securities are so pledged to the board of any public corporation, such board shall require security in the amount of one hundred ten dollars for every one hundred dollars of public deposits. Securities which shall be eligible for such pledge shall be notes or bonds issued by the United States government, its agencies or instrumentalities, all bonds and notes guaranteed by the United States government. Federal land bank bonds, bonds issued by any state of the United States, or bonds issued by the corporation making such deposit. Such securities may be delivered to and held for safekeeping by any bank or trust company, other than the depository, which the depository and the public corporation may agree upon, which bank or trust company prior thereto has been approved as a custodian for such purpose by the state examiner. Whenever any such securities are so deposited for safekeeping with any custodian, such custodian shall issue a receipt therefor jointly to the depository and the public corporation."

Section 6-0349 of the North Dakota Revised Code of 1943 provides as follows:

"Notes and bonds insured and debentures issued by the Federal Housing Administrator shall be eligible as collateral to secure the deposit of public or other funds, as deposits with any public or other funds, as deposits with any public official or department and for investment of capital, surplus, reverse, or other funds where such investment is limited to designated securities."

Subject to the limitation stated in section 21-0407 of the North Dakota Revised Code of 1943 to the effect that the amount of county funds deposited in any one bank may not exceed the combined capital and surplus of such bank, it plainly appears that the county of LaMoure may deposit its funds in the First State Bank of LaMoure upon making a pledge of appropriate securities in compliance with sections

21-0409 and 6-0349, supra.

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