

**OPINION  
57-15**

July 10, 1957        (OPINION)

BUILDING AND LOAN ASSOCIATIONS

RE: What is Legal Investment

Your request for an opinion of this office regarding the authority of state building and loan associations to invest in debentures issued by the Federal Intermediate Credit Bank, has been received.

Section 6-03471 of the 1953 Supplement to the N.D.R.C. of 1943 provides in part as follows:

Without regard to any other provision of law, banks, buildings and loan associations, insurance companies, and other organizations of this state authorized to make mortgage loans and whose mortgage lending is regulated by law, are authorized to make or buy and sell any loan secured or unsecured, which is insured or guaranteed in any manner in part or in full by the United States or any instrumentality thereof or by this state or any instrumentality thereof, or for which there is a commitment to so insure or guarantee, or for which a conditional guarantee has been issued, \* \* \*." (Emphasis supplied).

This is the state law applicable to the case. We will notice with reference to the guarantee that a state statute is satisfied where the guarantee is in part only. The Federal Intermediate Credit Bank is an instrumentality of the United States and while Title 12 U.S.C.A., section 1043, prohibits the United States from being personally liable as security for Federal Intermediate Credit Banks' obligations, the Federal Intermediate Credit Bank is made personally liable under Title 12 U.S.C.A., section 1081, which reads as follows:

Any Federal intermediate credit bank issuing debentures or other such obligations under this subchapter shall be primarily liable therefor, and shall also be liable, upon presentation of the coupons for interest payments due upon any such debentures or obligations issued by any other Federal intermediate credit bank and remaining unpaid in consequence of the default of the other Federal intermediate credit bank. Any Federal intermediate credit bank shall likewise be liable for such portion of the principal of debentures or obligations so issued as are not paid after the assets of such other Federal intermediate credit bank have been liquidated and distributed. Such losses, if any, either of interest or of principal, shall be assessed by the Farm Credit Administration against solvent Federal intermediate credit banks liable therefor in proportion to the amount of capital stock, surplus, and debentures or other such obligations which each may have outstanding at the time of such assessment. Every Federal intermediate credit bank shall, by appropriate action of its board of directors duly recorded in its minutes, obligate itself to become liable

on debentures and other such obligations as provided in this section: \* \* \*."

It is the opinion of this office that this guarantee, being the liability of the Federal Intermediate Credit Bank, is sufficient guarantee mentioned as partial guarantee under section 6-03471, and it therefore follows that under the state law we are of the opinion that the debentures of Federal Intermediate Credit Banks are legal investments of building and loan associations and authorized by state law.

We herewith return copy of opinion by Mr. John S. Whittlesey of Burnett, Bergesen, Whittlesey, Shermoen and Pancratz, Fargo, North Dakota, dated June 25, 1957, as requested.

LESLIE R. BURGUM

Attorney General