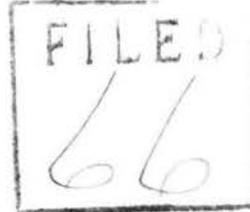


STATE TREASURER: Revenue Notes of State of Illinois not acceptable as security for State deposits.

DEPOSIT PUBLIC FUNDS: Revenue Notes not acceptable; not registered bonds within meaning of Sec. 11469, and not acceptable by State Treasurer as security for State deposits.

3-5
March 2, 1934.



Honorable Richard R. Nacy
State Treasurer
Jefferson City, Missouri

Dear Mr. Nacy:

We are in receipt of your letter of February 10th, 1934, with request for an opinion, which letter of request is as follows:

"I am enclosing correspondence with the Telegraphers National Bank of St. Louis, including their letters, resolution, and our replies, requesting an exchange of securities posted by them to secure State funds on deposit in that bank.

Will you kindly return all correspondence along with an opinion as to the legality of the acceptance of these particular bonds by the State Treasurer as security for State deposits."

Accompanying said letter of request we find certain correspondence, a letter from Mr. H. Kolkmeier, Assistant Cashier of The Telegraphers National Bank of St. Louis, and a copy of a resolution, dated February 7th, 1934, of the Board of Directors of The Telegraphers National Bank of St. Louis, and also a copy of an advertisement submitted by the Telegraphers National Bank, relating to the issue of ten million dollars (\$10,000,000.00), State of Illinois six per cent revenue notes. The question upon which you desire an opinion is, as to the legality of the acceptance of these particular revenue notes by the State Treasurer as the security for deposits made by the State Treasurer in The Telegraphers National Bank.

By an examination of Section 11469, R. S. No. 1929, as amended by Acts of 1931, at page 378, we find that,

"For the security of the funds deposited by the treasurer under the provisions of articles 1 and 2 of this chapter the governor, attorney-general and the treasurer shall require of said selected and approved banks or banking institutions giving security for the safe-keeping and payment of said deposits a bond equal to at least twenty-five per cent of the amount of the accepted bid or bids, to be approved by the governor and attorney-general, and in addition thereto bonds of the United States, the State of Missouri, or in their discretion, the registered bonds of the City of St. Louis or of any other city in this state having a population of not less than two thousand, or in their discretion the registered bonds of any school district situated in any city, town or village in this state, or in their discretion the approved registered bonds of any drainage or levee district in this state, or in their discretion the approved registered bonds of any special road district in this state, or in their discretion the registered state bonds of any state, or in their discretion the federal land bank bonds, to an amount of at least equal in value to the amount of the deposits with such bank or banking institutions; * * * * *"

We do not have before us, and they are not in the State Library, the Acts of the Fifty-eighth General Assembly, first extra session, of the State of Illinois; but we do have before us a statement published in the newspaper, and submitted by The Telegraphers National Bank, relative to the revenue notes aforementioned, which statement is as follows:

"Exempt From All Federal Income Taxes

\$10,000,000

STATE OF ILLINOIS

6% Revenue Notes

"Dated February 1, 1934 Redeemable on or
after December 1, 1934

THESE REVENUE NOTES, issued by the State of Illinois and authorized by act of the State Legislature, are, in the opinion of counsel, issued in anticipation of and payable from a general State ad valorem tax now levied and to be collected as a part of the 1934 tax levy for emergency relief. These Revenue Notes may be issued in an amount not to exceed 75% of the amount of the levy specifically provided for by a legislative act of the 58th General Assembly, First Special Session, such levy having been made upon all the taxable property in the State in an amount of \$38,000,000.

Another act passed at said First Special Session as one of the group of six acts for emergency relief provides for the submission to popular vote at the Fall election in 1934 of a general obligation State of Illinois Bond Issue in an amount of \$30,000,000 with serial maturities and provides for the levy of an annual tax sufficient to meet the principal and interest requirements of the bonds. This tax will be extended and collected only if a sufficient amount is not realized to pay such principal and interest out of the motor fuel or gasoline tax, as a portion of the gasoline tax which is distributed to the several counties and municipalities has been specially appropriated by law for this purpose, each county and municipality contributing in proportion to the amount of relief it receives.

These Revenue Notes are redeemable by lot at any time after December 1, 1934, after fifteen days' public notice, at par and accrued interest, from the proceeds of the sale of this State Bond Issue, if voted; otherwise, said notes will be paid solely as said emergency relief tax levied for the year 1934 becomes available.

The entire proceeds from the sale of these notes are appropriated to the Emergency Relief Fund to be used under the supervision of the Illinois Emergency Relief Commission."

From this statement we find that these revenue notes are dated February 1, 1934, and redeemable on or after December 1, 1934, and are payable after fifteen days' public notice, at par and accrued interest, from the proceeds of the sale of a state bond issue to be submitted to popular vote at the fall election in 1934 of a general obligation State of Illinois bond issue in an amount of thirty million dollars (\$30,000,000.00). From this statement we find that these revenue notes are an obligation of the State of Illinois, but they are not bonds of the State of Illinois, as their name indicates, and they were issued as an emergency relief measure to provide for relief in Illinois, and they are not, therefore, the registered state bonds of the State of Illinois.

Our statute (Acts of 1931, supra) provides in addition to the surety bond required of the depository:

"And in addition thereto * * * * *
or in their discretion the registered
state bonds of any state."

CONCLUSION.

By the statement submitted by The Telegraphers National Bank relating to the Revenue Notes in question, it is our opinion that said notes cannot be classified as registered state bonds of the State of Illinois, not having been voted by the people of that State, and do not come within the provisions of Section 11469, supra, and therefore not acceptable by the State Treasurer as security for State deposits.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.