

DEPOSITORIES:) Personal depository bond may be cancelled,
COUNTY DEPOSITORIES:) by compliance with depository pledging
BANKS & BANKING:) assets in conformity with Laws of Mo. 1937.

October 26, 1937.

10-28



Mr. E. H. Biehle
Secretary
Home Trust Company
Perryville, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of October 21st, relative to the depository situation in Perry County, in which you request the opinion of this Department on the matters therein contained. Your letter is as follows:

"In the past it has been customary for the banks of Perry County to secure all county funds by a personal bond. We understand that the new law requires depositories of county funds to post bonds of the government or municipal bonds in escrow to be held by a third party to secure such funds.

"Inasmuch as the county holds our personal bonds, will the provisions of the new law, with which we are complying, allow the county court to release the personal bond which they now hold, same having been accepted in May of this year for a period of 2 years? If they are not authorized to return this bond, it simply means that we are giving an excess bond for the privilege of being a county depository."

We take it from your letter that your banking institution has complied with the depository law as enacted by the 59th General Assembly, found at pages 502, et seq., Laws of Missouri, 1937, which provides in part as follows:

"Notwithstanding any provisions of law of this state or of any political sub-division thereof, the public funds of every county * * * * * which shall now or hereafter be deposited in any banking institution acting as a legal depository of such funds under the provisions of the Statutes of Missouri requiring the letting and deposit of same and the furnishing of security therefor, shall be secured by the said legal depository making deposit, as hereinafter provided, of securities of the same character as are required by Section 11469 and all amendments thereto for the security of funds deposited by the State Treasurer under the provisions of Article 1 and 2 of Chapter 72 of the Revised Statutes 1929, and all amendments thereto. * * * * *" (Underscoring ours.)

And has also complied with the provisions of Section 11469, enacted at the same session of the General Assembly and found at pages 521 et seq., Laws of Missouri, 1937, which provides the character of the securities which may be given by banking institutions to secure public funds deposited with said bank. The securities which meet the requirements of the statute are set forth therein, and are as follows:

- * * * (1) bonds or other obligations of the United States, or (2) bonds or other obligations of the State of Missouri, or (3) bonds of any city in this state having a population of not less than two thousand, or (4) the bonds of any county in this state, or (5) the approved registered bonds of any school district situated in any city, town or village in this state, or (6) the approved registered bonds of any special road district in this state, or (7) the state bonds of any state, or (8) the bonds of any Federal Land Bank, or (9) the bonds of any Federal Intermediate Credit Bank, or

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(10) the bonds of the Federal Farm Mortgage Corporations, or (11) the bonds of the Home Owners Loan Corporation, or (12) the bonds or other obligations of the Reconstruction Finance Corporation, or (13) the bonds of the Federal Home Loan Banks, or (14) securities issued under the provisions of the Tennessee Valley Authority Act and guaranteed by the government of the United States, or (15) securities issued under the provisions of the Federal Housing Act and guaranteed by the government of the United States, or (16) any bonds or other obligations guaranteed as to payment of principal and interest by the government of the United States to an amount at least equal in value to one hundred per centum of the amount of the deposits with said banks or banking institutions, less \$5000.00 where the depository is insured by the Federal Deposit Insurance Corporation; * * * * *

From your letter we take it that the Laws of 1937, supra, relative to the selection of the depositories and the pledging of the requisite securities to secure same have been fully complied with in every respect. It is, therefore, our opinion, in that event, that the personal depository bond or bonds, given to secure the county deposit by the banking institution, may be cancelled by the court, and the signers thereof relieved of responsibility thereafter. However, for any breach of the depository bond or bonds or violation of the terms of same, which occurred or took place prior to the cancellation of same, the principal and securities would be liable therefor.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General