

DEPOSITORIES: National Banks may pledge their assets  
to secure the public funds of a city  
BANKS & BANKING: of the fourth class.

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April 23, 1942

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Mr. R. F. Poynter  
Vice President  
The National Bank in North Kansas City  
North Kansas City, Missouri



Dear Sir:

This is to acknowledge receipt of your letter of recent date in which you request our opinion. Since your request relates to the law relating to the depository of public funds, namely, the public funds of the City of North Kansas City, we are herewith giving you our opinion on the question. Your letter is as follows:

"The City Attorney for the City of North Kansas City has filed with the City Council an opinion that neither a State or National Bank may pledge any part of its assets to secure the deposit of city funds. Will you please advise at your early convenience if his opinion is correct.

"It has always been our understanding that both State and National banks were empowered to pledge their assets for such security."

Your question is, as we understand from your letter, and also subsequent correspondence, as follows: May state and National banks pledge their assets to secure the funds of the City of North Kansas City, a city of the fourth class?

Section 7160 R. S. Mo., 1939, provides as follows:

"Boards of aldermen in cities of the fourth class are hereby empowered and authorized, at their first regular meetings in the months of January, April, July and October of each year, to select a depository for the funds of their respective cities, for such length of time and under such rules and regulations as may be provided and prescribed by ordinance therefor: Provided, always, that such depository shall be a banking corporation or an individual banker or a trust company doing business within such city; and provided further, however, that if such depository cannot be selected, or such satisfactory arrangements made, such boards of aldermen are hereby empowered and authorized to loan such moneys upon the same terms and under the same conditions as provided by law for the loaning of county and school moneys."

This section provides the method by which the Board of Aldermen of the City of North Kansas City may select a depository for the funds of said city, and the depository must be duly selected in accordance with this section.

The Missouri Legislature in 1937, at page 502, Laws of Missouri, 1937, enacted what is now Section 8183, R. S. Mo., 1939, which section 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 \* \* \* city, \* \* \* 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 the 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 13086 and all amendments thereto for the security of funds deposited by the State Treasurer under the provisions of Article 1 and 2 of Chapter 87 of the Revised Statutes of Missouri 1939, and all amendments thereto. \* \* \* "

This section provides that banking institutions may pledge the same securities to secure the public funds as may be used by them to secure the State funds deposited by the State Treasurer in the State's legal depositories. The kind of securities that may be pledged by the banking institutions to secure the State funds are set forth in Section 13086, R. S. Mo., 1939, where reference may be made for the character of securities that may be pledged.

The Act of June 25, 1930, passed by Congress and approved by the President, 12 U. S. C. A., Section 90, provides:

"Any association may, upon the deposit with it of public money of a State or any political subdivision thereof, give security for the safekeeping and prompt payment of the money so deposited, of the same kind as is authorized by the law of the State in which such association is located in the case of other banking institutions in the State. \* \* \* \*"

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And, therefore, since the effective date of said Federal Act, National banks have been permitted to pledge their assets to secure public funds of the same kind and description as is authorized by the law of the state in which said association is located. The effect of this section is that National banks located in Missouri, to secure public funds of the respective political subdivisions of the State, may pledge the same securities as are set forth in Section 13086, supra.

CONCLUSION

It is our opinion, therefore, when the Board of Aldermen of the City of North Kansas City duly selects the depository for its public funds, in the manner as set forth in Section 7160, supra, and the Statutes of Missouri, the National bank in question, if it is so duly selected, may pledge the same securities as set forth in Section 13086, supra.

Respectfully submitted

COVELL R. HEWITT  
Assistant Attorney General

APPROVED:

ROY McKITTRICK  
Attorney General of Missouri

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