

CONTRACTS OF STATE TREASURER AND : Form and provisions of contracts
STATE DEPOSITORY WITH CUSTODIAN : found to comply with the statutes
OF SECURITIES : of Missouri

May 31, 1945



Honorable Robert W. Winn
State Treasurer
Jefferson City, Missouri

Dear Mr. Winn:

This will acknowledge your letter to General Taylor, under date of May 29, 1945, in which you request an opinion respecting the legality of the form and provisions of contract agreements to be entered into by you with the Industrial Bank and Trust Company of St. Louis, Missouri, and the Chemical Bank and Trust Company of New York City, New York, creating the said Chemical Bank and Trust Company as custodian for securities required to be deposited by the said Industrial Bank and Trust Company of St. Louis as a depository of State funds, has been received and assigned to the writer to prepare the opinion.

Your letter states:

"The enclosed forms are contract agreements to be entered into by the State Treasurer of Missouri, the Industrial Bank and Trust Company, St. Louis, Missouri and the Chemical Bank and Trust Company of New York City, New York, relative to the Chemical Bank and Trust Company acting as custodian for securities posted as collateral by the Industrial Bank and Trust Company, St. Louis, Missouri to secure State of Missouri funds deposited in the Industrial Bank and Trust Company.

"Kindly render this office your opinion as to whether or not this agreement is in proper form and meets with the requirements of the

of the laws of the State of Missouri."

These contracts provide that the said Chemical Bank and Trust Company of New York City, New York, shall be custodian of some of the securities required to be deposited by the depositories of State funds under Section 13086, Article 2, Chapter 87, R. S. Mo. 1939. Said Section, 13086, provides that the Governor, Attorney General and the State Treasurer shall require the selected and approved banks or banking institutions as such depositories to secure the funds deposited with them by depositing for safekeeping and payment of such deposits bonds or securities that may be selected from the sixteen (16) types of bonds and securities mentioned in said Section.

The State through the State Treasurer's Office has its primary contract with the State depositories under said Section 13086, requiring the deposit of such securities for the protection of the public funds on deposit with them. Said Section 13086 further provides that at any time such bonds or securities are not satisfactory to the Governor and the Attorney General, the Governor and the Attorney General may require of such depository such additional securities as may be satisfactory to the Governor and Attorney General, and provides that such additional securities may from time to time be withdrawn on the written consent of the Governor, Attorney General and State Treasurer.

These contract forms submitted here, providing for the selecting of said Chemical Bank and Trust Company, in no way interfere with or lessen the safety of the public funds or the bonds or securities which secure them. The said Industrial Bank and Trust Company of St. Louis, is held to primary obligation to the State as a depository of the public funds and must at all times keep sufficient bonds and securities deposited in the vaults of the State Treasury or in the vaults of banks or trust companies other than the depository itself to secure such funds.

It is, therefore, in keeping with both the letter and spirit of the statute that the said Industrial Bank and Trust Company as such depository may select the said Chemical Bank and Trust Company as a custodian of such bonds and securities as the said depository desires to place with said custodian, and that you join in such contracts.

These contracts in fact do add to the security of the public funds on deposit with said depository, because the terms of the contracts confer the right upon the State Treasurer to demand and receive directly from said custodian such securities

Honorable Robert W. Winn

-3-

May 31, 1945

without notice to or the consent of said depository and compel their conversion into cash for any loss or default or anticipation thereof of State funds in such depository.

The form of the contracts is in conformity to the laws of the State of Missouri.

CONCLUSION.

It is, therefore, the opinion of this Department that these proposed contracts are in proper form and meet the requirements of the laws of the State of Missouri, and will constitute an aid to the security of the public funds of the State.

Respectfully submitted,

GEORGE W. CROWLEY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

GEC:ir