

PUBLIC SCHOOL RETIREMENT SYSTEM: Public school retirement system contracts with servicers on FHA secured loans and procedures for handling foreclosures on such loans are proper and are approved.

FILED
435

December 20, 1962

OPINION REQUEST NO. 435 ANSWERED BY LETTER

Mr. G. L. Donahoe
Executive Secretary
Public School Retirement System of Missouri
Room 801, Jefferson Building
Jefferson City, Missouri

Dear Mr. Donahoe:

This is in answer to your letter of November 30, 1962. In your letter you call our attention to the investment of funds of the retirement system in accordance with the provisions of Section 169.040, RSMo 1959. The particular investments with which we are here concerned are the purchase of promissory notes by the retirement system which are secured by mortgages and insured by the FHA. In your letter you describe in detail the contract which is entered into between the retirement system and the seller of the promissory notes whereby the seller acts as servicer for the promissory notes secured by mortgages and insured by the FHA. Under this contract the servicer is responsible for instituting and carrying out any necessary foreclosures, including court proceedings, and the servicer is responsible for appropriate settlement with the Federal Housing Commissioner. After the foreclosure is complete the Public School Retirement System of Missouri indemnifies the servicer for the necessary costs and expenses, including reasonable attorneys fees which are incurred. The properties mortgaged to secure the promissory notes are located in a number of other states as well as in Missouri and a similar contract is in force with each servicer regardless of where the property is located.

We are mindful of the provisions of paragraph 20 of Section 169.020 which states:

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"The Attorney General shall be the legal adviser of the board of trustees and shall represent the board in all legal proceedings."

We call attention to the fact that the type of investment described in your letter is specifically authorized by the provisions of paragraph 2 of Section 169.040. We assume that no member of the board of the retirement system has an interest in any company or firm which acts as servicer under the terms of the contract and that no member of the board profits directly or indirectly from any such investment and that these investments and the transactions in connection with them therefore do not come within the prohibition of Section 169.040, 3, RSMo Cum.Sup. 1961

Foreclosures which have been necessary in the past have been handled by the servicer in accordance with the terms of the contract with that servicer. Since the investment is specifically authorized by Section 169.040 and the contract with the servicer is an investment transaction authorized by the board, it is the opinion of this office that the contract with the servicer is proper and the procedures for handling foreclosures under the terms of the contract and as outlined in your letter are proper, and such procedures meet with our approval.

Yours very truly

THOMAS F. EAGLETON
Attorney General

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