

SAVINGS AND LOAN:  
DEPOSITARIES:  
SCHOOL DISTRICTS:  
SCHOOLS:

Qualifying school districts may place certain funds in savings accounts or certificates of deposit in insured savings and loan associations under the provisions of Section 369.194, RSMo Supp. 1973 and Section 165.051, RSMo.

OPINION NO. 62

March 19, 1975

Dr. Arthur L. Mallory  
Commissioner, Department of Elementary  
and Secondary Education  
6th Floor, Jefferson Building  
Jefferson City, Missouri 65101



Dear Dr. Mallory:

This opinion is in response to your inquiry asking:

"May school boards deposit district funds in accounts with savings and loan associations? If they may do so, what type of accounts may be opened and what restrictions are applicable?"

You further state that:

"Since the Federal Home Loan Bank Board has promulgated new rules in accordance with provisions of P.L. 93-495 increasing the insured investment of funds of political subdivisions to \$100,000, numerous inquiries have been received as to the effect the new regulations have on school districts. This has given rise to a more basic question: May school boards deposit district funds in accounts with savings and loan associations?"

Section 165.051, RSMo, with respect to the investment of surplus funds, provides:

"If any school district has money in the teachers', incidental, building, or debt service fund which will not be needed for a period

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of at least six months for the purpose for which the money was received, the school board in districts other than common school districts, and the county court upon the written application of the board in common school districts, if it deems it advisable, may invest the funds in either open time deposits for ninety days or certificates of deposit in a depository selected by the board or the court, if the depository has deposited securities under the provisions of sections 110.010 and 110.020, RSMo; or in bonds, redeemable at maturity at par, of the state of Missouri, of the United States, or of any wholly-owned corporation of the United States; or in other short term obligations of the United States. No open time deposits shall be made or bonds purchased to mature beyond the date that the funds are needed for the purpose for which they were received by the school district. No funds shall be invested in any district which does not provide a school term of nine months. Interest accruing from the investment of the surplus funds in such deposits or bonds shall be credited to the fund from which the money was invested."

Section 369.194, subsection 1, RSMo Supp. 1973, provides:

"Savings accounts in insured associations are legal and proper investments or depositories for fiduciaries of every kind and nature, all political subdivisions or instrumentalities of this state, insurance companies, business and nonprofit corporations, charitable or educational corporations or associations, all financial institutions of every kind and character, all pension, endowment and scholarship funds both public and private, and each and all of them may invest funds in savings accounts in such associations. The supervisor shall by regulation permit associations to pledge funds or assets in connection with the investment of public funds in savings accounts of associations, and may provide that savings accounts in associations shall be legal investments for any persons, firms, corporations

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or entities not herein specifically referred to."

Section 369.194 authorizes savings and loan associations to be depositaries for school districts. It is our understanding that the current regulations of the Division of Savings and Loan Supervision, Department of Consumer Affairs, Regulation and Licensing, respecting savings and loan associations treat both "savings accounts" and "certificates of deposit" as "savings accounts." Regulation Forty-74.

Section 165.051 authorizes investments by certain school districts in open time deposits for ninety days or "certificates of deposit" in banking institutions and Section 369.194 authorizes savings accounts in "insured associations." Investment in "open time deposits for ninety days or certificates of deposit" in banking institutions must be secured under Section 110.010, RSMo Supp. 1973, and under Section 110.020, RSMo Supp. 1973, to the value of one hundred percent of the actual amount of the funds on deposit with the depositary, less the amount, if any, insured by the Federal Deposit Insurance Corporation.

Savings accounts which are authorized in savings and loan associations under Section 369.194, must be in "insured" savings and loan associations, that is, those associations insured by the Federal Savings and Loan Insurance Corporation. In the absence of any other applicable language, and we find none, we take this to mean that such accounts must be insured in full and that, in view of the particular reference in such section to "insured" savings and loan associations, the requirements of Section 110.010, respecting security, was not intended to be applicable to savings and loan accounts up to the amount of insurance coverage.

It is further our view that "investments" in insured savings and loan association accounts, certificates, or funds placed in savings and loan associations which have been selected as depositaries, while not subject to such security requirements to the extent of the insurance, are subject to such security requirements to the extent that such investments or funds placed in savings and loan associations selected as depositaries exceed the insured maximum.

We are also of the view that the reference in Section 165.051 to "open time deposits for ninety days" is not applicable to savings and loan accounts but that the provisions of Section 165.051, relating to the requirement that funds placed in accounts must be funds which are not needed for six months, is applicable.

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CONCLUSION

It is the opinion of this office that qualifying school districts may place certain funds in savings accounts or certificates of deposit in insured savings and loan associations under the provisions of Section 369.194, RSMo Supp. 1973 and Section 165.051, RSMo.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH  
Attorney General