

Opinion No. 337.

State Examiner—Housing Authorities.

HELD: The State Examiner has no power to examine the books and accounts of Housing Authorities.

September 28, 1938.

Hon. W. A. Brown
State Examiner
Capitol Building

Dear Mr. Brown:

You have submitted the following questions for my opinion:

“1. Do the Housing Commissions come within the provisions of Section 210, R. C. M. 1935, and must they set up such methods and detail of accounts as prescribed by this department?”

“2. Must they be examined by the State Examiner, and, if so, what fee, if any, should be charged?”

“3. Could the Housing Authority elect or choose the City Treasurer to be ex-officio Treasurer, and the City Clerk to keep accounts and draw warrants approved by the Housing Commission? If this could be done.

the accounting problem and extra expense therefor, could be reduced to a minimum."

In no place in the Federal Housing Authority's Law, Sections 5309.1 to 5309.36, R. C. M. 1935, do we find any mention made of the state examiner examining the books and accounts of housing authorities, although Section 5309.26 does require the authorities to file at least once each year, with the mayor of the city, a report of their activities of the preceding year. Neither is there any fee provided by law for such examination and therefore none could be charged. (See our opinion to you dated August 12, 1938, No. 322, in Vol. 17.)

If any authority exists for such examination by the state examiner, it would necessarily be by reason of Section 210, paragraph (1), R. C. M. 1935, which gives the state examiner authority to examine the books and accounts of all officers and boards "having the control, management, collection or disbursement of any public moneys." Section 5309.31 provides for the donation of money by a city to a housing authority for administrative expenses and overhead for the first year. In addition thereto, a city or municipality has the power, annually from time to time, to make donations or advances to the authority of such sums as the said municipality in its discretion may determine. The housing authority is required to reimburse the city or municipality for all advances by way of loans made to it.

We are inclined to the view, however, that any municipal moneys donated or advanced by way of a loan lose their character as "public moneys" in the sense used in Section 210, supra, so as to give power to the state examiner to examine the books and records of the housing authority to which the donation or loan was made. Such money, once expended by the municipality, ceases to be public money and becomes money belonging to the housing authority. If this is not true, when does it cease to be "public money"?

For the reasons given, we answer your first question in the negative. It, therefore, becomes unnecessary to give an opinion on the other two questions submitted.

We think that if the legislature intends to have the books and accounts

of housing authorities examined it should expressly provide for the same as well as for the fee to be paid therefor.