

Opinion No. 84.**Fire Department Relief Associations—
Investment of Surplus Funds—
Investments.**

HELD: Time deposits represented by a certificate of deposit are not subject to the provisions of Section 5121.

A time deposit is not an investment within the meaning of Section 5121.

Fire department relief associations are not prohibited from keeping funds in a bank on a time deposit as such deposit is not an investment prohibited by Section 5121.

June 21, 1939.

Hon. W. A. Brown
State Examiner
The Capitol

Dear Mr. Brown:

You have submitted the following:

“Section 5121, R. C. M., 1935, provides that a fire department relief association may invest surplus funds of the association in certain securities when such securities are recommended by the State Auditor and approved by the State Examiner. Certain of these relief associations have deposited their surplus funds in banks on time certificates having fixed maturity date. It has been our position that funds so handled are not investments but are bank deposits. * * *

“We would like to be informed as to whether or not in your opinion certificates of deposit acquired by

fire department relief associations from banks are subject to the provisions of Section 5121. If they are investments, it seems they can not be made use of because they are not listed among the class of securities which the State Auditor may recommend and the State Examiner may approve."

Section 5121, R. C. M., 1935, reads:

"* * * When so directed by a majority vote of the members of the association, the board of trustees shall have the power to invest the surplus funds of the association or any part thereof, in bonds or other securities of the United States government, in general obligation bonds or warrants of any state, county or city as are recommended by the State Auditor and approved by the State Examiner. At the time of purchase such investments must be stamped in bold-face type, substantially as follows: * * *."

A time deposit is not a bond or a security of the United States, neither is it a general obligation bond or warrant of the state, county or city. These are the only securities mentioned in this section which may be recommended by the State Auditor and approved by the State Examiner. Answering your first question, we must therefore hold that a time deposit is not subject to the provisions of Section 5121 because it is not an investment as therein described.

The further question arises whether the board of trustees may permit funds of the association to remain in the bank as a time deposit guaranteed as an ordinary deposit. We do not think it was the intent of the Legislature to forbid time deposits and to force the funds of the association either to remain in open account or to be invested in the securities mentioned in Section 5121. We think what this section means is that if the funds are invested in securities, they must not be invested in any securities except the kind listed therein; that the word "investments," as therein used, is synonymous with securities; that by investment it was meant a more permanent and inactive disposition of the funds rather than their safe keeping in a time deposit.