

Banks and Banking—Trust Receipts—Depositaries—Public Funds—Foreign Corporations.

Trust receipts of a foreign corporation may not be taken in lieu of securities for the safe keeping of public funds.

L. Q. Skelton, Esq.,
Superintendent of Banks,
Helena, Montana.

April 28, 1925.

My dear Mr. Skelton:

You have requested my opinion whether trust receipts of a non-resident banking corporation may be accepted under the provisions of chapter 137, laws of 1925, in lieu of the securities themselves as security for public funds.

Chapter 137, in prescribing the kind of securities that may be acceptable, provides:

“Such securities shall consist of bonds of some surety company authorized to do business in the state of Montana, bonds and securities of the United States government and its depend-

ents, bonds and warrants of the state of Montana or of any county, city, town or school district of Montana, personal bonds, as hereinafter provided, when accompanied by a sworn statement of the resources and liabilities of each of the sureties thereon which shall be attached and made a part of the bond and corporation bonds issued in the United States of America, which are quoted on the New York stock exchange, which shall be acceptable at not to exceed ninety per cent of such market quotation. Provided, further, that when negotiable securities are furnished, such securities may be placed in trust and the trustee's receipt may be accepted in lieu of the actual securities when such receipt is in favor of the treasurer, his successors and the state of Montana, and the form of receipt and the trustee have been approved by the state examiner."

It will be observed that when provision for accepting trust receipts was made no express declaration was made by the legislature as to whether they should be confined to corporations doing business in the state of Montana.

However, in providing for surety company bonds the legislature expressly directed that only those were acceptable when executed by a "surety company authorized to do business in the state of Montana."

This provision was made so that the obligation could be enforced without resorting to the courts of a sister state.

I believe that the legislature intended that the securities should be held in the state of Montana.

The matter to be accomplished by making provision for accepting trust receipts was simply to provide for the safe keeping of the securities in a secure vault, which was not always available in the county treasurer's office. It was not intended that the securities could be held outside the state of Montana or that recourse must be had in the courts of foreign jurisdictions to enforce the obligation in case of its breach.

It is, therefore, my opinion that trust receipts of a foreign corporation not engaged in or authorized to do business in Montana may not be accepted in lieu of actual securities to secure public funds.

Very truly yours,

L. A. FOOT,
Attorney General.