

Deposits—Public Moneys—County Treasurers.

The limitation found in Section 1 of Chapter 134, Session Laws of 1927 that certain securities acceptable by the County Treasurer to secure deposits of public funds may be accepted by him at not to exceed 90% of their market quotation refers only to corporation bonds issued in the United States and quoted on the New York stock exchange, and does not apply to bonds and securities of the United States government and its dependents, and bonds and warrants of the State of Montana, or any county, city, town or school district, the latter being acceptable at their face value.

Norman Mosser, Esq.,
County Treasurer,
Chinook, Montana.

February 2, 1929.

My dear Mr. Mosser:

You have requested my opinion whether Section 1 of Chapter 134, Session Laws of 1927, relating to deposit of public funds by county treasurers limits the acceptance of government bonds, bonds and warrants of the State of Montana, or any county, city, town or school district thereof, as security for the deposit of public moneys to 90% of their market quotations, or if such limitation applies only to corporation bonds issued in the United States which are quoted on the New York market.

That part of said section that is pertinent to your inquiry reads as follows:

"Such securities shall consist of bonds of some surety company authorized to do business in the State of Montana, or bonds guaranteed by such companies directly or indirectly, bonds and securities of the United States government and its dependents, 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 market, which shall be acceptable at not to exceed ninety per cent (90%) of such market quotation."

It is my opinion that the limitation of ninety per cent (90%) applies only to corporation bonds issued in the United States, which are quoted on the New York market. If this limitation, by construction, was held to apply to other than its last antecedent it would have to apply equally to all the securities mentioned in the act, bonds of surety companies, personal bonds and warrants of the state and its subdivisions, as well as to government, state, county, town and school district bonds. Surety company and personal bonds and warrants of the State of Montana and its subdivisions are not quoted on the New York market, and therefore the ninety per cent limitation could not be held to apply to them as such a construction would in effect exclude them as available security, yet the statute makes them acceptable as such. But, as stated above, if the limitation is to be construed as applying to any other than its last antecedent, it must be held to apply to all of them which would lead to this inconsistency.

It is my construction of this section that before corporation bonds may be accepted as security they must be issued in the United States and be quoted on the New York market; that when these two conditions exist they are acceptable at not to exceed ninety per cent of their market quotation, and that as to bonds and securities of the United States government and its dependents and bonds and warrants of the State of

Montana or any county, city, town or school district therein they are acceptable at their face value.

Very truly yours,
L. A. FOOT,
Attorney General.
By L. V. Ketter, First Assistant.