

No. 143

**DEPOSITORIES, securities required of—CITY HOUSING
AUTHORITIES**

**Held: Bonds of City Housing Authorities are not acceptable as security
for deposit of public funds.**

June 18, 1941.

Mr. Thomas E. Carey
State Treasurer
State Capitol Building
Helena, Montana

Dear Mr. Carey:

The pertinent portion of your question is:

“Can Series A bonds, issued by the Helena Housing Authority or the Great Falls Housing Authority, be used as collateral to public deposits, state, county or city, in this state?”

“According to a prospectus of these bonds, the United States Housing Authority is pledged to contribute 3% of the total cost of the projects, annually, until the last maturity of the Series A bonds.”

Section 4767 of the Revised Codes of Montana, 1935, requires depositories of public moneys held by county, city and town treasurers furnish security for the safe and prompt payment of such funds. The acceptable securities are specifically described therein to be:

“ . . . 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, Federal Land Bank bonds, bonds of other states and counties of other states, bonds of the Dominion of Canada, and Canadian Provinces, and other Canadian bonds guaranteed by the Canadian government or provinces thereof, 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 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 centum (90%) of such market quotation."

Under Section 182 of the Revised Codes of Montana, 1935, the depositories of state funds must furnish security limited to the following:

" . . . cashier's check or checks issued by the Federal Reserve Bank, bonds of the United States Government and its dependents, bonds guaranteed by the United States Government or its dependents, bonds of the Federal Land Banks, bonds and warrants of the State of Montana, bonds and warrants of any county of the State of Montana, and bonds of any city, town, or school district of the State of Montana, which are a general obligation of such county, city, town or school district, or bonds of some good solvent surety company authorized to do business in the State of Montana, . . ."

The bonds of the Helena or Great Falls Housing Authority, if acceptable at all, must fall within the class of bonds and securities of or guaranteed by the United States Government or its dependents. The bonds are not a debt or obligation of the state or city. (*Rutherford v. City of Great Falls*, 107 Mont. 512, 86 Pac. (2nd) 656.) Nor do they fall within the provisions of Sections 5309.36 or 6018.2, as amended, of the Revised Codes of Montana, 1935, making certain bonds, mortgages and obligations eligible collateral for depositories.

I cannot rule the bonds are bonds and securities of or guaranteed by the United States Government or its dependents. The laws of this State—requiring security for the deposit of public moneys—were designed as adequate and full safeguards. Any relaxation of a strict interpretation of these laws might, in some instances, lead to disastrous results. However sound the bonds in the instant case may be, they are not, in my opinion, acceptable as security for deposit of public funds.

Sincerely yours,

JOHN W. BONNER
Attorney General