

2344.

APPROVAL, BONDS OF BERNE TOWNSHIP RURAL SCHOOL DISTRICT,
FAIRFIELD COUNTY, \$6,000.00.

COLUMBUS, OHIO, April 4, 1925.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2345.

INSURANCE—LEGAL RESERVE LIFE INSURANCE COMPANY ORGANIZED UNDER LAWS OF OHIO MAY INVEST ITS ACCUMULATIONS IN BONDS AND MORTGAGES UPON LEASEHOLD ESTATES ON REAL ESTATE FOR NINETY-NINE YEARS RENEWABLE FOREVER—SECTION 9357 CONSTRUED.

SYLLABUS:

A legal reserve life insurance company organized under the laws of Ohio, under the provisions of paragraph 2 of Section 9357 G. C. may invest its accumulations, among other things, in bonds and mortgages upon leasehold estates on real estate for ninety-nine years renewable forever, unincumbered, except rentals accruing therefrom to the owner of the fee, the market value of which leasehold estate is at least double the amount loaned thereon at the date of the investment. Should the amount loaned thereon exceed one-half of the value of the leasehold estate mortgaged, exclusive of structures thereon, such structures must be insured in an authorized fire insurance company or companies, and in an amount and upon the terms and requirements as therein specified.

COLUMBUS, OHIO, April 6, 1925.

HON. HARRY L. CONN, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—This will acknowledge the receipt of your recent communication requesting the opinion of this department as follows:

“We have a couple of inquiries from insurance companies asking whether they are permitted to invest company funds in leasehold first mortgage bonds and also where the property is owned in fee. These bonds are secured by mortgage of trust deeds on office buildings, hotels and apartment houses, where the purchaser of the bonds does not hold the mortgage or deed of trust but same runs in favor of and is held by a trustee for the unnamed bondholders.

“It is my information that some insurance departments hold that where the insurance company does not buy a majority of the issue and thus be able to dictate the procedure as regards the remedy in case of default, investment in such bonds may not be made. My view is that this feature would not be controlling, but to the end that this department may declare the policy as to Ohio companies, will you please advise me your interpretation of the statute?”

Sec. 9343 G. C. regulating the investment of the capital of a legal reserve life insurance company organized under the laws of this state provides for the investment of such capital, among other things, "in mortgages on unincumbered real estate worth double the amount loaned thereon."

Section 9344 G. C. requires that if the amount loaned thereon exceeds one-half of the value of the land mortgaged, exclusive of structures thereon, such structures shall be insured in an authorized fire insurance company, in an amount not less than the difference between one-half the value of such land, exclusive of structures, and the amount loaned, together with the assignment of such policy to the mortgagee.

Relative to the "accumulations" Section 9357 G. C. provides in part that such a company may invest, among other things therein mentioned, as follows:

"In bonds and mortgages upon unincumbered real estate, the market value of which is at least double the amount loaned thereon, at the date of the investment, and in bonds and mortgages upon leasehold estates on real estate for ninety-nine years renewable forever, unincumbered, except rentals accruing therefrom to the owner of the fee, the market value of which leasehold estate is at least double the amount loaned thereon at the date of investment. If the amount loaned exceeds one-half of the value of the land mortgaged, or one-half of the value of the leasehold estate mortgaged, exclusive of structures thereon, such structures must be insured in an authorized fire insurance company or companies, in an amount not less than the difference between one-half the value of such land, or leasehold estate, exclusive of structures, and the amount loaned, and the policy or policies shall be assigned to the mortgagees. The value of such real or leasehold estate, shall be determined by a valuation, made under oath by two real estate owners, residents of the county where the real estate, or leasehold is located."

You mention in your letter that "some insurance departments hold that where the insurance company does not buy a majority of the issue and thus be able to dictate the procedure as regards the remedy in case of default, investment in such bonds may not be made.

In reply to this statement will say we fail to find such a limitation within the statute itself. However, it is believed that at most this could only be an administrative matter of policy that probably might be considered within the discretion of the Superintendent of Insurance in passing upon or checking the investments of a given company.

It is therefore my opinion that under the provisions of paragraph 2 of Section 9357 G. C. that such insurance companies therein provided for may invest their "accumulations" in bonds and mortgages upon leasehold estates and real estate for ninety-nine years renewable forever, unincumbered, except rentals accruing therefrom to the owner of the fee, the market value of which leasehold estate is at least double the amount loaned thereon at the date of the investment, and if the amount loaned exceeds one-half of the value of the leasehold estate mortgaged, exclusive of structures thereon, such structures must be insured in an authorized fire insurance company or companies, in an amount not less than the difference between one-half the value of such leasehold estates, exclusive of structures, and the amount loaned, and the policy thereon properly assigned to the mortgagee.

Respectfully,

C. C. CRABBE,
Attorney General.