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BANKS, STATE — NOT MEMBERS OF FEDERAL RESERVE SYSTEM—MAY LAWFULLY PURCHASE REVENUE BONDS OF LOCAL HOUSING AUTHORITIES OUTSIDE OF OHIO—WHERE HOUSING AUTHORITIES HAVE CONTRACTED WITH PUBLIC HOUSING AUTHORITY FOR ANNUAL CONTRIBUTIONS, UNITED STATES HOUSING ACT OF 1937, AS AMENDED, TITLE 42, SECTION 1401 ET SEQ., USC—SECTION 710-111 (1) GC.

## SYLLABUS:

Pursuant to the provisions of Section 710-111(1), General Code, and the regulations promulgated thereunder, state banks not members of the Federal Reserve System may lawfully purchase revenue bonds of local housing authorities situated outside Ohio, when such housing authorities have contracted with the Public Housing Authority for annual contributions pursuant to the provisions of the United States Housing Act of 1937, as amended, Title 42, Section 1401, et seq. U. S. C.

Columbus, Ohio, June 30, 1953

The Hon. Thurman R. Hazard, Superintendent of Banks  
Columbus, Ohio

Dear Sir:

I have before me a request that I reconsider my Informal Opinion #43 rendered to you on August 14, 1951. The request upon which that Opinion was rendered read as follows:

“Would the Public Housing Authority bonds to be issued under the United States Housing Act of 1949, in amount of \$160,000,000 par value, to be offered on July 17, 1951 by 58 separate local housing authorities in 28 states and Hawaii, and which bonds are not to be issued by local housing authorities within the state of Ohio, be eligible for investment by state banks not members of the Federal Reserve System?”

At this point, a digression to establish an exact definition of terms is in order:

The so-called Housing Act of 1949, Chap. 338, P. L. 171, 81st Congress, is set out in 63 Stat. 413. So far as pertinent to the question which you have raised, that Act made certain amendments to the United States

Housing Act of 1937 (50 Stat. 888), which Act as amended is set out in Title 42, U. S. C. Chap. 8, Section 1401, et seq. So, the basic provisions governing the bonds in question are found in the 1937 Act as amended. Essentially those provisions are as follows:

“Section 1409. The (Public Housing) Administration may make loans to public housing agencies to assist the development, acquisition or administration of low-rent-housing or slum-clearance projects by such agencies. \* \* \*”

“Section 1410. (a) The Administration may make annual contributions to public housing agencies to assist in achieving and maintaining the low-rent character of their projects. \* \* \* The Administration shall embody the provisions for such annual contributions in a contract guaranteeing their payment over such fixed period. \* \* \*”

The exact question which you raise is whether state banks subject to your jurisdiction properly may purchase revenue bonds of local housing authorities located outside Ohio, when those local authorities have entered into contracts with the Public Housing Administration pursuant to the United States Housing Act, *supra*.

Permissible investments for state banks are set out in Section 710-III, General Code, which provides in part as follows:

“A bank may invest its funds in the following securities: \* \* \*  
“(1) Bonds or other obligations of any state or political subdivision thereof, of a public corporation, or governmental agency, body or commission which are payable solely out of anticipated revenues, commonly known as ‘revenue bonds’ under such further conditions and restrictions as may from time to time be prescribed by the superintendent of banks, with the approval of the banking advisory board.”

Regulation IV-A of the Division of Banks, dated September 12, 1945, signed by the Superintendent of Banks and by the Banking Advisory Board, provides in part as follows:

“\* \* \* By virtue of the authority vested in the Superintendent of Banks under the provisions of sub-paragraph (L) of Section 710-III of the General Code of Ohio, the following conditions and restrictions relating to revenue bonds have been prescribed by the Superintendent of Banks with the approval of the Banking Advisory Board, investments heretofore legally made shall not be affected by this regulation.”

## SECTION II.

“\* \* \* Bonds of public housing authorities supported by fixed annual contributions of the federal public housing authority shall be eligible for purchase by banks.”

It is my opinion that in view of the provisions of Section 710-111 (1), supra, and the nature of the obligation assumed by the United States, the quoted regulation was validly adopted, and authorizes the purchase of the bonds in question.

There remains only one question, and that is whether there has been any amendment of the federal law since 1945 which would render your quoted regulation invalid. I have examined the Housing Act of 1949 and other amendments to the Act of 1937, and find that they have strengthened rather than weakened the position of the bondholders. For example, Section 1410(f) of Title 42, U. S. C. now provides that:

“Payments under annual contributions contracts shall be pledged, if the Administration so requires, as security for any loans obtained by a public housing agency, \* \* \*.”

And Section 1421 a(b) now provides that the Administration may contract to continue the annual contributions even though the local authority may be in default under its contract.

In view of the above, it is therefore my opinion that pursuant to the provisions of Section 710-111 (1), General Code, and the regulations promulgated thereunder, state banks not members of the Federal Reserve System may lawfully purchase revenue bonds of local housing authorities situated outside Ohio, when such housing authorities have contracted with the Public Housing Authority for annual contributions pursuant to the provisions of the United States Housing Act of 1937, as amended, Title 42, Section 1401, et seq. U. S. C.

Inasmuch as I find that my Informal Opinion #43, dated August 14, 1951 was rendered without knowledge of Regulation IV-A and without a proper consideration of Section 710-111(1), General Code, that Opinion is overruled.

Respectfully,

C. WILLIAM O'NEILL

Attorney General