

2245

AUTHORITY OF FOREIGN TRUST COMPANY LICENSED TO DO BUSINESS IN OHIO—TO ACT AS TRUSTEES FOR SAFEKEEPING OF SECURITIES PLEDGED BY PUBLIC DEPOSITORIES—EXTENDS ONLY TO SECURITIES PLEDGED FOR REPAYMENT OF DEPOSITS OF STATE FUNDS—SECTION 2296-15a G. C.

SYLLABUS:

Under Section 2296-15a, General Code, the authority of a foreign trust company licensed to do business in Ohio to act as a trustee for the safekeeping of securities required to be pledged by public depositories extends only to securities pledged for the repayment of deposits of state funds.

Columbus, Ohio, September 1, 1950

Bureau of Inspection and Supervision of Public Offices  
Columbus, Ohio

Gentlemen:

Your request for my opinion reads as follows:

“Sections 2296-1, General Code, are known as the ‘Uniform Depository Act.’

“In numerous sections of this Act, reference is made to the state and its political subdivisions.

"In Section 2296-15a, General Code, appears the following :

"\* \* \* With the written consent of the treasurer of state a trust company which has been licensed to transact business within this state pursuant to section 710-152 of the General Code and while such license is in force may be designated as a qualified trustee to act as such for the safe-keeping of securities hereby required to be pledged and deposited as security for the repayment of deposits of public moneys of the state, without otherwise qualifying as herein provided. \* \* \*

"QUESTION: In your opinion, does this limit the eligibility of out of state trust companies, authorized to do business within the state, to serve as trustee for the custody of securities deposited in connection with state fund deposits, or may other political subdivisions, such as counties, school districts, etc., place depository collateral with out of state trustees?"

As noted in your letter, the question you present arises under Section 2296-15a of the General Code, pertaining to the security required of financial institutions to qualify as depositories of public funds. Included among the institutions which may be authorized to act as trustees for the security pledged by public depositories are foreign trust companies licensed to do business in Ohio pursuant to Section 710-152, General Code. You ask whether under this authorization such trust companies may act as trustees for the security pledged to political subdivisions as well as to the state.

The pertinent provision of Section 2296-15a, General Code, is quoted in your letter. You will note that the authorization extends only to "the safekeeping of securities hereby required to be pledged and deposited as security for the repayment of deposits of *public moneys of the state.*" (Emphasis added.) Upon examination of the Uniform Depository Act, it is seen that a distinction is made between "public moneys" and "public moneys of the state." The former term is used when the intention is to cover moneys held by the state *and* its subdivisions, while the latter is restricted to moneys "coming lawfully into the possession of the treasurer of state." The terms are so defined in Section 2296-1, paragraph (a), which reads as follows :

"This act shall be known as 'the uniform depository act.'  
As used in this act :

"(a) 'Public moneys' means all moneys in the treasury of the state, or any subdivisions thereof, or coming lawfully into the possession or custody of the treasurer of state, or of the treasurer of any such subdivision. 'Public moneys of the state'

includes all such moneys coming lawfully into the possession of the treasurer of state; and 'public moneys of a subdivision' includes all such moneys coming lawfully into the possession of the treasurer of the subdivision."

Therefore, in answer to your question, I am of the opinion that under Section 2296-15a, General Code, the authority of a foreign trust company licensed to do business in Ohio to act as a trustee for the safekeeping of securities required to be pledged by public depositories extends only to securities pledged for the repayment of deposits of state funds.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.