

Amsterdam Casualty Company, against said The Elyria Savings and Trust Company arising from or growing out of said deposit of state of Ohio funds and/or the surety bonds given to secure such deposit, shall be, and they are hereby, forever cancelled, discharged, barred and forever held for naught, and each of said named parties is hereby forever enjoined from asserting, or attempting to assert, any further claim against said The Elyria Savings & Trust Company on account of said deposit or the application for, execution and delivery of said surety bonds."

Whether such order is binding upon the state need not be considered in answering the specific questions contained in your letter, since I have concluded upon other reasoning that there is authority for the Auditor and the Attorney General to effect the compromise. Nevertheless, I invite your attention to the following authorities holding constitutional Section 710-89, concerning the reopening of banks, as such section existed prior to the enactment of the present section 710-89a, General Code. *Felter vs. Bank of Leipsic Co.*, supra; *Floyd Chilton vs. The George D. Harter Bank*, Stark County Common Pleas Court, Unreported; *In re Citizens Savings Bank of Pemberville*, 30 N. P. (N. S.) 291; *In re City Trust & Savings Bank of Youngstown, Ohio*, 17 O. L. Abs., 165.

Specifically answering your inquiry, it is my opinion that:

1. A claim against a duly constituted state depository in process of liquidation, and against the sureties on the depository bond, may, under Section 20, General Code, be properly certified by the Treasurer of State to the Auditor of State.
2. Such claim may be compromised by the Auditor of State and the Attorney General, pursuant to Section 268, General Code.
3. Interest provided in a state depository contract continues to accrue during the period when the depository bank is under control of a conservator, pursuant to Section 710-88a, General Code.
4. Interest payable under such depository contracts ceases when the Superintendent of Banks takes possession of a bank for liquidation pursuant to Section 710-89, General Code.
5. Where, under a plan approved by a court of competent jurisdiction, for the reopening of a state depository bank, debenture notes of a mortgage loan company are made payable to all depositors, including the State of Ohio, the Treasurer of State, in completing a compromise between the sureties on the depository bond and the state, the same having been approved by the Auditor of State and the Attorney General, may legally endorse such debenture notes to the surety companies "without recourse."

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

3762.

APPROVAL, BONDS OF WAYNE RURAL SCHOOL DISTRICT, ADAMS COUNTY, OHIO—\$932.50.

COLUMBUS, OHIO, January 7, 1935.

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