

BANKS AND BANKING:
LOANS:
NOT-FOR-PROFIT CORPORATIONS:

A bank organized under Chapter 362, RSMo 1949, may purchase bonds issued by a not-for-profit corporation in an amount not in excess of the prohibition imposed by Section 362.170, RSMo 1949.

April 6, 1959



Honorable James Clifford Crouch
Representative, Taney County
House of Representatives
Jefferson City, Missouri

Dear Sir:

On March 19, 1959, you wrote to this department as follows:

"At the suggestion of Mr. O'Malley, I herewith submit to you the following hypothetical situation, for your interpretation:

- A. Presbyterian Church, organized under the Not-for-Profit laws of Missouri, plans to sell bonds to local people in the amount of \$25,000 for the purpose of constructing an addition to the church.
- B. A bank organized under Chapter 362 Revised Statutes of Missouri, 1949, desires to purchase a portion of said bonds, in the amount of \$5,000 at 5% interest callable in 5 years. Under Section 362.105 (1), and in particular, by virtue of the phrase '...including bonds...' can said bank purchase these bonds?

"I would appreciate a letter or memorandum on this particular question as quickly as possible."

We direct attention to the following portion of Section 362.105, RSMo 1949:

"Every bank shall be authorized and empowered:

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(1) To conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral of personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and nonnegotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, such corporation may receive and retain the interest in advance; provided, however, that no bank shall maintain in this state a branch bank, or receive deposits or pay checks except in its own banking house;" (Emphasis ours.)

The above portion of Section 362.105 and the portion of the section which follows constitute a grant of authority to banks. Under that grant of authority, it will be noted from the quoted portion of the section that banks are authorized to buy bonds.

Section 362.170, RSMo 1949, sets forth certain limitations upon the grant of authority given under Section 362.105, supra. We particularly direct attention to the following portion of the section:

"A bank subject to the provisions of this chapter:

(1) Shall not directly or indirectly lend to any individual, partnership, corporation, or body politic, either by means of letter of credit, by acceptance of drafts or by discount or purchase of notes, bills of exchange or other obligations of such individual, partnership, corporation, or body politic an amount or amounts in the aggregate which will exceed fifteen percent of the capital stock actually paid in and surplus fund of such bank if located in a city having a population of one hundred thousand or over; twenty per cent of the capital stock actually paid in and surplus fund of such bank if located in a city having

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a population of less than one hundred thousand and over seven thousand; and twenty-five per cent of the capital stock actually paid in and surplus fund of such bank if located elsewhere in the state, with the following exceptions: "

We shall not quote the remainder of this section because of its very considerable length.

In our consideration of this matter, we assume that the corporation in question, to wit, a Presbyterian Church organized under the not-for-profit laws of Missouri, is authorized to issue the bonds to which you refer. As we stated above, Section 362.105 gives to banks the authority to purchase bonds. As we also pointed out, Section 362.170, supra, places certain limitations upon the grant of authority given in Section 362.105. It is our belief that a bank may purchase such bonds as you refer to, subject to the limitations set forth in Section 362.170.

CONCLUSION

It is the opinion of this department that a bank organized under Chapter 362, RSMo 1949, may purchase bonds issued by a not-for-profit corporation in an amount not in excess of the prohibition imposed by Section 362.170, RSMo 1949.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton
Attorney General

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