

**OPINION  
71-30**

May 12, 1971            (OPINION)

Mr. John A. Zuger

City Attorney

Bismarck, ND

RE:   Banks - Official Depositories - Pledge of Securities

This is in response to your letter in which you state that you have been asked by the Board of City Commissioners to request an opinion whether or not securities issued by instrumentalities or political subdivisions of states other than North Dakota may be pledged under the requirements of Section 21-04-09.

You further state, as you understand it, that banks have offered to pledge the bonds and obligations of political subdivisions of other states. You then ask the question whether or not under Section 21-04-09 the securities that may be pledged are limited only to obligations issued by other states or if such obligations would include the obligations of political subdivisions of other states.

The pertinent language of Section 21-04-09 is as follows:

"PLEDGE OF SECURITY IN PLACE OF DEPOSTING BOND. The board of any public corporation may accept from any banking corporation, as security for repayment of deposits, a pledge of security in lieu of a personal or surety bond. When securities are so pledged\* \* \*such board shall require security in the amount of one hundred ten dollars for every one hundred dollars of public deposits. Securities which shall be eligible for such pledge shall be bills, notes or bonds issued by the United States Government, its agencies or instrumentalities\* \* \*and all other forms of securities issued by the state of North Dakota, its boards, agencies, or instrumentalities or by any county, city, township, school district, park district or other political subdivision of the state of North Dakota \* \* \*and bonds issued by any other state of the United States.\* \* \*" (Emphasis ours)

It is noted that securities issued by the state of North Dakota, its political subdivisions, boards, agencies or instrumentalities, qualify as securities which may be pledged. At the same time it is also noted that where the statute speaks of other states, it does not use any language which indicates that it includes boards, agencies or instrumentalities of other states. It simply refers to bonds issued by any other state of the United States.

Where the Legislature specifically enumerated the securities of agencies, instrumentalities and political subdivisions of this state in referring to the state of North Dakota, as well as of the state of North Dakota, but does not so enumerate in referring to securities of other states, in the same statute, we are compelled to conclude that the securities of another state are only those which are issued by

the state and do not include securities or obligations issued by boards, agencies or political subdivisions of another state.

It is therefore our opinion that securities or obligations issued by boards, agencies, instrumentalities, or political subdivisions, including county, city or township, etc., of another state other than North Dakota may not be pledged to satisfy the requirements of Section 21-04-09. Securities of the state itself would qualify.

HELGI JOHANNESON

Attorney General