

INTERPRETIVE LETTER 91-6 (MARCH 14, 1991)

Illinois Banking Act does not impose restrictions on state banks as to the type, identification or segregation of assets pledged to secure public funds.

This letter explains the position of the Illinois Commissioner of Banks and Trust Companies ("Commissioner's Office") concerning questions you raised pertaining to the pledging of bank assets to secure deposits of public funds.

During our telephone conversation this past Monday, you stated that * would like to pledge mortgages as security for the deposit of public funds. As we discussed, Sections 5(7)(c) and (d) of the Illinois Banking Act ("Act") (Ill. Rev. Stat. 1989, ch. 17, par. 311(7)(c) and (d)) permit state banks to pledge their assets to secure deposits of public money. In light of that pledging authority, you asked if there existed:

- 1) Any restrictions on the type of bank assets which could be pledged;
- 2) Any identification requirements for pledged bank assets; and
- 3) Any requirements on the segregation of pledged bank assets.

Neither the Act nor any Rules promulgated by this Agency specifically address any restrictions or requirements as to the type, identification or segregation of pledged bank assets. The Commissioner's Office takes the position that neither the Act nor this Agency's Rules would prohibit * from pledging mortgages as security for deposits of public funds.

You should be aware that Section 1 of "An Act in relation to the deposit of public funds" (Ill. Rev. Stat. 1989, ch. 102, par. 34) authorizes a treasurer or custodian of public funds to require a bank in Illinois to secure the amount of deposited public funds which exceed the federally-insured limit with securities guaranteed by agencies and instrumentalities of the federal government. You should also be aware of the requirements of Section 6 of "An Act relating to certain investments of public funds by public agencies" (Ill. Rev. Stat. 1989, ch. 85, par. 906) with which banks in Illinois must comply in order to receive public funds per Section 1 previously mentioned. Copies of Section 1 and 6 above are enclosed for your reference.