

**INTERPRETIVE LETTER 91-31 (NOVEMBER 25, 1991)**

**Loan to fire protection district backed by full faith and credit of district is a general obligation of a municipality that is exempt from lending limits.**

This is in answer to your letter of \*, concerning a proposed loan by an Illinois state bank ("bank") to a fire protection district ("district") located in the county in which the bank is located. The amount of the proposed loan would exceed the sum of 20% of the unimpaired capital and 20% of the unimpaired surplus of the bank, which is the general lending limit under the Illinois Banking Act ("Act"). You describe the district as a political subdivision of the State of Illinois with the authority to tax property within its boundaries. The note which the district would propose to execute would recite that it is a general obligation of the district that will be backed by the full faith and credit of the district. Your question is whether this transaction is exempt from the lending limits under the provisions of Section 35(4) of the Act, Ill. Rev. Stat. Ch. 17, Par. 343(4) (1989).

Section 35 of the Act provides:

' 35. Exemptions from loan and investment limits. The limitations in Sections 32, 33, and 34 upon the liabilities of any one person and upon the purchase or holding of marketable investment securities shall not apply to the following as to which there shall be no limitation:

\* \* \*

(4) General obligations and tax anticipation warrants of each state of the United States and general obligations of each municipality located in whole or in part in the county in which the bank is located.

\* \* \*

To determine whether the exemption in Section 35(4) of the Act applies to the proposed transaction requires the answer to two questions. First, is the fire protection district a "municipality?" Second, is the proposed note a "general obligation?" Section 2 of the Act, Ill. Rev. Stat. Ch. 17, Par. 302 (1989), states:

"Municipality" means any municipality, political subdivision, school district, taxing district, or agency.

In your inquiry you characterize the fire protection district as a "political subdivision." Further, "An Act in relation to fire protection districts," Ill. Rev. Stat. Ch. 127 1/2, Par. 21 (1989), characterizes such districts as "municipal corporations," and the Revenue Act of 1939, Ill. Rev. Stat. Ch. 120, Par. 482 (1989), includes fire protection districts with the power to levy taxes within the term "taxing district." These provisions demonstrate that the fire protection is a "municipality" as the term is used in section 35(4).

Section 2 of the Act, Ill. Rev. Stat. Ch. 17, Par. 302 (1989), states:

"General obligation" means a bond, note, debenture, security, or other instrument evidencing an obligation of the issuer that is supported by the full available resources of the issuer, the principal and interest of which is payable in whole or in part by taxation.

The definition, while describing examples "bond, note, debenture, security," does not purport to limit the definition to these forms of obligation, but rather adds an encompassing "other instrument." The defining characteristic is not the form of instrument, but whether it is supported by "the full available resources of the issuer." The emphasis of the definition is on whether the obligation to repay is or is not limited to a particular source of repayment--for example revenue bonds payable from income from a particular source, versus general obligation bonds backed by the full faith and credit of the issuer, including its taxing authority.

Support for this usage of the term "general obligation" is also provided by the Local Government Debt Reform Act, Ill. Rev. Stat. Ch. 17, Par. 6901 et seq. (1989). In particular, Section 3 of that Act, Ill. Rev. Stat. Ch. 17, Par. 6903 (1989), defines it as follows:

"General obligation bonds" means bonds of a governmental unit for the payment of which the governmental unit is empowered to levy ad valorem property taxes upon all taxable property in a governmental unit without limitation as to rate or amount.

Section 3 also states that:

"Bond" means any instrument evidencing the obligation to pay money authorized or issued by or on behalf of a governmental unit under applicable law, including without limitation, bonds, notes, installment or financing contracts, leases, certificates, tax anticipation warrants or contracts, leases, certificates, tax anticipation warrants or notes, vouchers, and any other evidences of indebtedness.

From all these provisions, the Agency concludes that a note backed by the full faith and credit of the fire protection district is a general obligation of that taxing district, and since the district is located in the same county where the bank is located, the provisions of Section 35(4) of the Act apply to exempt the note from the limitations of Section 32, 33 and 34.