INTERPRETIVE LETTER 93-019 (OCTOBER 21, 1993)

Investments in general obligations of municipalities located in bank's county are not subject to investment limits; investments in revenue bonds secured by obligations of State of Illinois are limited to 50% of bank's unimpaired capital and surplus.

This is in response to your letter dated *, regarding the purchase of bonds to be issued by the City of * ("City"). * State Bank ("Bank") wants to finance the $1,500,000 bond issue, but the Bank already has on its books $* of general obligation bonds and $* of tax increment financing bonds issued by the City. You inquired whether the Bank can purchase the new issue of $1,500,000 without violating the investment limits of the Illinois Banking Act ("Act"). The Bank will not have recourse against City under this new bond issue, as payments would come from the State of Illinois pursuant to a purchase contract between the State and City. For the reasons described below, we are of the opinion that the purchase of the bonds in question will not result in a violation of the Act.

The relevant sections of the Act are Sections 33, 34 and 35, 205 ILCS 5/33-5/35 (1992) [formerly Ill. Rev. Stat. ch. 17, pars. 341-343]. Section 33 establishes the basic investment limit that applies to the purchase of marketable investment securities of a particular obligor at 20% of a state-chartered bank's unimpaired capital and unimpaired surplus. The Bank's basic investment limit under Section 33 is $*. Section 34 lists exceptions to the Section 33 investment limit, and Section 35 lists exemptions for specified types of investments that are not subject to any limit.

Section 35(4) specifies an exemption for "general obligations of each municipality located in whole or in part in the county in which the bank is located." Thus, the $* in City general obligation bonds currently on the Bank's books do not come into play in determining whether the Bank would violate its investment limit if it purchased the $1,500,000 issue.

There is no general exception in Section 34 or exemption in Section 35 that applies to revenue bonds issued by municipalities such as City. However, if the municipality's revenue bonds are secured by obligations of the State of Illinois, Section 34(1) provides an exception that increases the investment limit from 20% to 50% of unimpaired capital and unimpaired surplus. In the Bank's case, the limit for investments under Section 34(1) would be increased from $* to $*.

The $1,500,000 bond issue would be purchased by the Bank without recourse against City. Payment of the principal and interest would be secured by the State of Illinois' payment obligations under the purchase contract. The Bank also would hold a mortgage on the building. Under these circumstances, we are satisfied that the $1,500,000 bond issue is fully secured by obligations of the State of Illinois and that the investment limit exception of Section 34(1) applies. Pursuant to the increased investment authority stated in Section 34(1), the purchase of the bonds in question would not result in a violation of the Act, even when aggregated with the $* of City tax increment financing bonds already on the Bank's books.