



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable B. F. McKee
County Auditor
Hidalgo County
Edinburg, Texas

Dear Sir:

Opinion No. 0-884

Re: Whether contract, pledging securities equal in amount to county or city deposits, less \$5000.00 guaranteed under the Federal Deposit Insurance Corporation, complies with statutes governing county or city depositories.

Your letter of May 25 in which you request an opinion from this department has received our attention. Permit us to quote the request, as contained therein, as follows:

*Articles 2544, Revised Civil Statutes, and succeeding articles, provide for the designation of a depository for county funds. The county depository is a National bank and our contracts covering county and school funds provide for the deposits of government securities equal to the amount of the county deposits, less \$5,000.00 automatically guaranteed under Federal Deposit Insurance Corporation. Please advise if such an exception is permissible under the provisions of the statutes covering county depositories.

*Articles 2550 and succeeding articles have very similar provisions for naming and qualifying a city depository. Please advise if the law governing such city depositories permit a similar provision in the depository

contract, that is the exception of \$5,000.00 automatically guaranteed by the Federal Deposit Insurance Corporation."

Chapter 2, Articles 2544, et seq., relating to county depositories and Chapter 3, Articles 2559, et seq., relating to city depositories, are found incorporated under Title 47 of Vernon's Annotated Revised Civil Statutes, 1925. By a very comprehensive Act passed in 1937, 45th Legislature, regular session, Chapter 484, the above mentioned statutes were amended. Under the provisions thereof, we find Article 2566 re-enacted and which provides that all provisions of the Act shall apply to towns and villages incorporated under the general laws of Texas, as well as to cities so incorporated.

Section 4 of said Act of 1937, found incorporated in the Revised Civil Statutes, 1925, as Articles 2566a, reads as follows:

"Notwithstanding any provisions of this Act requiring securities for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of Section 12b of the Federal Reserve Act as amended, or any amendments thereto."

You will note that the above provisions of Article 2566a expressly exempt such banks that are members or come within the provisions of Sec. 12b of the Federal Reserve Act as amended, or any amendment thereto, from being required to maintain securities as collateral for the protection of county or city deposits to the extent of the deposits insured by said law. The emergency clause, under which the 1937 Act, 45th Legislature, Chapter 484 was passed, expressly referred therein to the 1935 amendment to the Federal Reserve Act.

An examination of the provisions of the 1935 amendment to the Federal Reserve Act discloses that Section 12b, as amended, set forth under Chapter 614, Acts of the 74th Congress, session one, as found in Vol. 49 U.S. Statutes at large p. 684, provides for the establishment of the Federal Deposit Insurance Corporation, an agency or instrumentality of the Federal Government. This Act provides that any State or National member bank

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shall be an insured bank under the Act with its deposits insured up to \$5000.00. Every National bank within the United States, and every state bank which is a member of the Federal Reserve system, are insured member banks with said Federal Deposit Insurance Corporation.

You are therefore respectfully advised that it is our opinion that a contract with a depository bank, which exempts securities required to be placed on deposit as collateral to secure county or city funds under the provisions of Articles 2547 and 2560, as amended, in an amount not to exceed \$5000.00, is permissible where said depository bank is an insured member bank with the Federal Deposit Insurance Corporation.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *J. R. King*
Mr. J. R. King
Assistant

APPROVED JUN 24, 1939

Gerald B. Mann
ATTORNEY GENERAL OF TEXAS



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