



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**GERALD C. MANN
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ATTORNEY GENERAL**

Honorable O. P. Lockhart, Chairman
Board of Insurance Commissioners
Austin, Texas

Dear Sir:

Opinion No. 0-4374

Re: Are the \$1,220,000.00 revenue bonds issued by the Agricultural and Mechanical College of Texas and similar revenue bonds issued by other State colleges eligible as tax reducing "Texas securities" under the provisions of the Robertson Law; Articles 4765-4769, as amended, and as tax reducing securities under Article 7064, as amended, and are they eligible as authorized securities under Article 4725, Vernon's Annotated Civil Statutes?

Your letter requesting the opinion of this department on the above stated question reads as follows:

"Please advise whether the \$1,220,000 of revenue bonds issued by the Agricultural and Mechanical College of Texas for the purpose of building dormitories, equipping power plants and building and equipping laundry plants; and other similar revenue bonds issued by other State Colleges, such as John Tarleton College at Stephenville (which is a branch of A & M College), Texas State College for Women, Denton, and Texas Technological College at Lubbock, which revenue bonds are not secured by valid first liens upon Texas real estate but only by pledged revenue of the Colleges by or the projects for which they were issued, are eligible as tax reducing 'Texas securities' under the provisions of the Robertson Law, Articles 4765-4769 as amended, and as tax reducing securities under Article 7064 as amended; and whether they are eligible as authorized securities under Article 4725."

Article 7064, Vernon's Annotated Civil Statutes, provides in part:

"Every insurance corporation, Lloyd's, or reciprocals, and any other organization or concern transacting the business of fire, marine, marine inland, accident, credit, title, livestock, fidelity, guaranty, surety, casualty, or any other kind or character of insurance business other than the business of life insurance, and other than fraternal benefit associations, within this State at the time of filing its annual statement, shall report to the Board of Insurance Commissioners the gross amount of premiums received upon property located in this State or on risks located in this State during the preceding year, and each of such insurance carriers shall pay an annual tax upon such gross premium receipts as follows:
. . . If any such insurance carrier shall have as much as one fourth of its entire assets, as shown by said sworn statement, invested in any or all of the following securities: real estate in this State, bonds of this State or of any county, incorporated city or town of this State, or other property in this State in which by law such insurance carriers may invest their funds, then the annual tax of any such insurance carriers shall be one and one half (1 1/2) per cent of its said gross premium receipts;"

Article 4769, Vernon's Annotated Civil Statutes, provides in part:

"Each life insurance company not organized under the laws of this State, transacting business in this State, shall annually, on or before the 1st day of March, make a report to the Commissioner, which report shall be sworn to by either the president or vice president and secretary or treasurer of such company, which shall show the gross amount of premiums collected during the year ending on December 31st, preceding, from citizens of this State upon policies of insurance. Each such company shall pay annually a tax equal to four and sixty-five hundredths (4.65) per cent of such gross premium receipts.

When the report of the investment in Texas securities, as defined by law, of any such companies as of December 31st of any year shall show that it has invested on said date as much as thirty (30) per cent of its total Texas reserves as defined by law, in promissory notes or other obligations secured by mortgage, deed of trust, or other lien on Texas real estate and/or in loans to residents or held by such borrowers, the rate of occupation tax shall be reduced to four and five one hundredths (4.05) per cent;...

Each of the above mentioned statutes provides for a further reduction in taxes where greater amounts of the funds mentioned in said statutes are invested in the securities therein named.

Article 4725, Vernon's Annotated Civil Statutes, sets forth the securities in which a life insurance company organized under the laws of this State may invest or loan its securities. This statute provides in part:

" . . . or in the bonds and warrants of any educational institution of the State of Texas, or any municipally owned water system or sewer system when special revenues to meet the principal and interest payments as they accrue upon such obligations shall have been appropriated, pledged or otherwise provided by such municipality or educational institution;"

Article 4706, Vernon's Annotated Civil Statutes, sets forth or names the securities in which insurance companies, except companies writing life, health and accident insurance, may invest their funds over and above their paid up capital stock.

In view of the foregoing statutes you are advised that it is the opinion of this department that the above mentioned revenue bonds are not eligible as tax reducing "Texas securities" under Article 4769 or Article 7064, supra, because such bonds are not promissory notes or other obligations secured by a mortgage, deed of trust, or other lien on Texas real estate, etc., as set forth in Article 4769 as eligible tax reducing securities. The same can be said relative to such bonds with reference to Article 7064 as such bonds do not come within the securities mentioned in said article.

With reference to your question as to whether such bonds are eligible as authorized securities under Article 4725, Vernon's Annotated Civil Statutes, it is our opinion that such bonds are eligible as authorized securities under said article when the educational institution issuing such bonds provides revenues to meet the principal and interest payments as they accrue upon such obligations by appropriation, pledge or otherwise provided by such educational institution as authorized by Article 4725, supra.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Ardell Williams
Ardell Williams
Assistant

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APPROVED MAR 4, 1942
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Approved Opinion Committee by s/BWB Chairman