



0-5820
Spencer

OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Jesse James
State Treasurer
Austin, Texas

Dear Sir:

Opinion No. 0-470A
Re: Did Senate Bill
165 and amendments
amend Article 696 and
give to the Banking
Department the power
or authority to super-
vise the deposit and
withdrawal of securities
placed under the provi-
sion of Article 696?
Add other related ques-
tions?

Your request for an opinion on the above matters has been received and carefully considered. We quote from said request as follows:

"We are enclosing a copy of a letter written by the Honorable H. A. Jamison, Deputy Banking Commissioner of Texas, which sets out in detail the various changes made by that department, with reference to the method of handling - and the reasons therefor - of all deposits and withdrawal of securities made by the Great American Life Underwriters, Inc., under provisions of Senate Bill No. 165 enacted in 1931.

"You will note from this letter, that the Banking Department, under a previous administration, assumed supervision of securities deposited under Article 696 of the Revised Civil Statutes of 1925 under the belief that Senate Bill No. 165 and amendments of the 45th and 46th Legislature - gave the Banking Department the authority to act in a supervisory capacity for such deposits. You will also note that the

present Banking Commissioner has reached the conclusion that this was in error; therefore, that department no longer exercises such powers.

"During the time the Banking Department exercised supervision over securities deposited under Article 696 by the Great American Life Underwriters, Inc., the deposit was increased to \$100,000.00 U. S. Treasury Bonds and these bonds have been withdrawn until the present deposit is composed of the following securities:

"Baker Hotel, Dallas, First Mortgage Sinking Fund Bonds of 1950, 5%	\$10,000.00
Great Northern Railway Com- pany General Mortgage 4% Convertible Bonds	10,000.00
Kentucky Utilities Company 4 1/2% Sinking Fund Mortgage Bonds,	5,000.00
Mississippi Power & Light First Mortgage Gold Bonds, 5%,	25,000.00
Pacific Power & Light Com- pany First Mortgage & Prior Lien Gold Bonds, 5%,	10,000.00
Southern Pacific Company ten Year 3-3/4% Secured Bonds,	10,000.00
Virginia Public Service Com- pany 5% Sinking Fund De- bentures	25,000.00
U. S. 2 1/2% Treasury Bonds	<u>5,000.00</u>
	\$100,000.00

In order to determine the duties and responsibilities of the State Treasurer in this connection, we kindly ask for an opinion on the following points:

"1. Did Senate Bill No. 165 and amendments, amend Article 696 and give to the Banking Department the power or authority to supervise the deposit and withdrawal of securities placed under provision of Article 696?

"2. Since the State Treasurer has no method of securing the market value of the securities now on deposit under Article 696, except from the periodic examination of the above Great American Life Underwriters, Inc. by the State Banking Department, do you consider the above as acceptable collateral for the protection required by the statutes governing such deposits?

"3. Is it necessary for the State Treasurer to obtain the written approval of the Attorney General of all securities deposited under Article 696?

" "

Article 696 of the Revised Civil Statutes of Texas is as follows:

"Each corporation, company or individual, doing business in this State as a bond investment company, or company to place or sell bonds, certificates or debentures on the partial payment or installment plan, shall deposit with the State Treasurer, in cash or securities approved by said Treasurer, the sum of five thousand dollars, and shall deposit semi-annually with said Treasurer, in cash or securities, to be approved by said officer, ten per cent of all net premiums received until the sum deposited amounts to one hundred thousand dollars. Acts 1897, p. 118; G. L. Vol. 10, p 1172."

Article 699 is as follows:

"On request of any such company, the State Treasurer is authorized to permit such company to interchange cash for the securities or securities for the cash deposited by such company under the provisions of this title with said Treasurer, such securities always to be approved by said Treasurer on the written advice of the Attorney General. Acts. 1901, p 282."

The only part of Senate Bill No. 165 and amendments thereto, which is Article 1524a of Vernon's Annotated

Honorable Jesse James, page 3

Texas Statutes, that throws any light on the question asked by you is the following part of Section 7 of said Act:

".

"All cash or securities left with the State Treasurer in compliance with Article 696, Revised Civil Statutes of 1925, shall be considered as part of the collateral required under this section."

"."

It is the opinion of this department, therefore, that question No. 1 asked by you should be answered in the negative and No. 3 in the affirmative. We are unable to definitely answer question No. 2 asked by you, for the reason that this department has no information as to the value of the various securities listed by you, but it is the opinion of this department, that it was intended by the passage of this law to require the companies affected thereby to deposit securities that had an actual value of the sums required thereby. If the values placed on such securities by the Banking Department cannot be relied upon and you desire further information in regard thereto, some way should be found to determine the value of same.

Trusting that this satisfactorily answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Jas. W. Bassett
Assistant

JWB:db:vdc

APPROVED MAR 17, 1943

/s/ Grover Sellers

FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED OPINION COMMITTEE BY BWB CHAIRMAN