



**OFFICE OF  
THE ATTORNEY GENERAL  
AUSTIN, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

December 2, 1947

Hon. J. M. Faulkner,  
Banking Commissioner,  
Austin, Texas

Opinion No. V-445

Re: Insured mortgage  
loans - Eligibility of  
for State banks.

Dear Sir:

Your request for an opinion by this department upon the above subject matter is accompanied by a letter from Mr. L. J. Cappleman, State Director, United States Department of Agriculture, Farmers' Home Administration, Dallas, Texas, from which we quote as follows:

"I am sending you a copy of Section 371, Title 12, United States Code, which provides for the making of insured mortgage loans through the Federal Reserve Act. . . ."

"We trust you will be able to give us your opinion within a short time and will notify the officers of the State banks of Texas concerning their eligibility, and we in turn will pass the information to our Supervisors in order that they may discuss the matter with bankers in their respective counties."

Article 342-504 (Vernon's Codification) of the Texas Banking Code defines the eligibility of real estate loans or investments for State banks. The subject securities are not there embraced.

Article 342-511 of the Code, however, is as follows:

"Any provisions of this Code to the contrary notwithstanding, any State bank may make any loan or investment which such bank could make were it operating as a national bank, and the making of such loan or investment shall not constitute

a violation of any penal provision of the statutes of the State."

In Opinion No. 0-6809 by this Department under date of September 15, 1945, addressed to Hon. H. A. Jamison, Commissioner of Banking, this Department construed the last quoted article in the following language:

"Article 342-511 above quoted clearly deals with the subject of eligible loans for investments for State banks, and therefore is in pari materia with the prior Articles 501, 502, 503, 504, 505 and 506 of Chapter V--all dealing with the same subject, though for the most part by negation. The common subject to which all these Articles relate is eligibility of investments. Articles 511 and 507 have nothing in common--that is to say, Article 511 does not deal with the question of limitation of liability of any one borrower, as does Article 507."

In a later opinion, No. 0-7098 addressed to Hon. L. S. Johnson, Banking Commissioner, this Department again quoted - 511 and commented as follows:

"State Banks in Texas have only the powers conferred upon them by the statutes of the State and the charters under which they act, and have no powers beyond this from any other government or source. The Code is a comprehensive one and covers the whole field of the operation of such banks. It is familiar law in statutory construction that such a code should be construed in its entirety, as a whole, giving effect to every portion thereof as an integral part of the law governing the particular inquiry. Article 4 would, if standing alone, exclude the character of investments permitted by Article 11. But it does not stand alone; on the contrary, Article 11 is as much a part of the law as any other part of the Code and is to be read in connection with Article 4 as though the same had been actually incorporated in that

Article as, indeed it is, a proviso."

Such farm mortgage insurance loans are eligible for national banks as we understand it.

From what we have said it follows that the insured mortgage loans of Section 371, Title 12, United States Code, are eligible investments for Texas State banks.

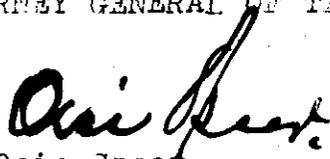
SUMMARY

Insured mortgage loans authorized by Section 371, Title 12, United States Code, are eligible for loans for investment by Texas State Banks in virtue of Article 11, Chapter V, of the Texas Banking Code.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

  
Ocie Speer  
Assistant

OS:wb

APPROVED:

  
FIRST ASSISTANT  
ATTORNEY GENERAL