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May 1, 1952
Opinion No. 52-125

Mr. E. T. Williams, Jr.,
State Treasurer
State Capitol
Phoenix, Arizona

Dear Mr. Williams:

We have your letter of April 16 wherein you ask our opinion concerning whether or not the following bonds pledged with the Chase National Bank, New York City, N. Y., sufficiently comply with provisions of Section 10-303, ACA 1939, to be pledged in lieu of surety bonds:

- "\$100,000 State of California 1½% School Bonds due Nov. 1, 1959.
- \$200,000 State of California 1½% Veterans Bonds due Aug. 1, 1958.
- \$264,000 State of New York 1 3/4% Bonds due Jan. 1, 1956.
- \$155,000 State of New York 1.60% Bonds due June 18, 1958.
- \$ 91,000 State of New York 1 3/4% Bonds due Jan. 1, 1957."

The pertinent part of Section 10-303, supra, reads as follows:

"In lieu of a surety bond, the bank may:
1. deposit regularly issued and interest-bearing bonds of the following character:

United States government bonds, State, county, municipal and school district improvement bonds, bonds of Federal land banks, bonds of joint stock land banks, bonds issued or guaranteed by corporations operating a United States reclamation project within the state when issued or guaranteed with the approval of the Secretary of the Interior, and bonds the payment of interest and principal of which is guaranteed by the

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United States, bonds issued by any United States government instrumentality or federal agency that qualify and are acceptable as security for funds of the United States government, registered warrants of this state, registered county warrants when offered as security for funds of the county by which they are issued." (Emphasis supplied)

If these bonds are to suffice they must come within the designation of state, county, municipal and school district improvement bonds. It is our opinion that the word "state" as therein used refers to the State of Arizona and was not intended to include other states in the United States. The statutory provision in the 1913 Code concerning this particular point was Section 4648 which provided:

"Any bank desiring to do so, may in lieu of the bond with security provided for by this title, deposit with the state treasurer, in the case of state moneys, and with the county treasurer, in the case of county moneys, interest-bearing bonds of the United States, or of this state, or any county, city, road district or school district of this state at par, as security for public moneys, * * *" (Emphasis supplied)

In 1927 the legislature amended the law consolidating several sections and making a few changes. At this time, they left out the word "this" before "state" as it appeared in the 1913 Code. It would appear to us that this omission was not an attempt to change the law but was left out in the process of consolidating several sections and streamlining the law. If a change had been intended it would have been a simple matter to have clearly set forth that bonds from any state would be sufficient. Likewise, it is logical to assume that the legislature of the State of Arizona in using the term "state, county, municipality and school district" without further designation intended to refer to the State of Arizona and the counties and municipalities in this state.

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One other reason for favoring this construction would be that if we accepted bonds of other states in lieu of surety bonds the State of Arizona would be at the mercy of the legislatures of those states, hoping that such legislatures would appropriate money to meet their bonded obligations when such obligations became due. For these reasons, it is our opinion that the bonds set forth above do not sufficiently comply with Section 10-303, supra, to relieve the bank from depositing surety bonds to protect the state's money.

Very truly yours,

FRED O. WILSON
Attorney General

KENT A. BLAKE
Assistant Attorney General

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