

Opinion No. 23-3726

August 1, 1923

BY: JOHN W. ARMSTRONG, Assistant Attorney General

TO: Requested by: Hon. J. E. Owens, Educational Budget Auditor, Santa Fe, New Mexico.

Banks May Not Receive on Deposit Public Monies in Excess of 75 per cent of Capital and Surplus.

OPINION

{*78} We quote your inquiry:

"I desire to know what percentage of the combined capital and surplus of a bank may be deposited with said bank; or what percentage of the bonded security of a bank may be deposited in public funds, under the Public Monies Act. When other security other than surety bonds is provided by the depository, is the basis changed?"

Depositories for public monies shall give a bond to cover such deposits in such sum as may be determined by the proper board of finance. -- Sec. 8, Chap. 76, S. L. 1923.

The proper board of finance shall designate depositories for public monies and shall also designate the amount which any such depository may receive provided, however, such amount shall not exceed 75 per cent of the capital and surplus of any depository so designated. -- Sec. 10, Chap. 76, S. L. 1923.

Notwithstanding the capital and surplus of any bank may be large, such bank may not receive public monies on deposit in excess of 90 per cent of the penal amount of its bond as designated by the proper board of finance. -- Secs. 8 and 19, Chap. 76, S. L. 1923.

No bank may receive on deposit in any event such monies in excess of 75 per cent of its capital and surplus regardless of the amount of its bond. Too, no bank may receive such monies on deposit in excess of 90 per cent of such depository bond regardless of the amount of its capital and surplus.

Any such bank, in lieu of giving a depository bond, may deliver to the proper board of finance, certain securities of an aggregate value equal to the amount of the depository bond as fixed by said board, but such securities so deposited may be accepted only at 90 per cent of their market value. -- Sec. 9, Chap. 76, S. L. 1923. These securities are held by the proper board of finance in lieu of the bond theretofore designated by the board, hence, that basis for determining the amount of deposit is not changed.