

Opinion No. 35-924

March 5, 1935

BY: FRANK H. PATTON, Attorney General

TO: Mr. Paul G. Schultz, State Director, Federal Housing Administration, Federal Building, Santa Fe, New Mexico.

{*50} You have asked our opinion regarding the language of a recent bill passed by the New Mexico Legislature authorizing banks "to invest their funds and monies in their custody or possession which are eligible for investment, in existing mortgages insured pursuant to Title II of the National Housing Act. . . ." You wish to know whether or not this language includes the investment in bonds secured by a mortgage so insured.

The word "mortgage" as used in the New Mexico Act must mean the same as the word "mortgage" as used in the National Housing Act. {*51} In Subsection (a) of Section 201 of the latter Act it is defined so as to include "such classes of first liens as are commonly given to secure advances on or the unpaid purchase price of real estate under the laws of the State in which the real estate is located, **together with the credit instruments**, if any ,secured thereby."

Bonds secured by such a mortgage would in my opinion come within the term "credit instruments" as used above. Consequently, I believe that they would be eligible for investment under the terms of the New Mexico Statute above referred to.

By QUINCY D. ADAMS,

Asst. Atty. General