

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

July 23, 1990

SUBJECT: Taxation & Revenue - Investment of surplus funds by county treasurers in certificates of deposit and mutual funds.

SYLLABUS: A county treasurer may invest surplus funds in certificates of deposit and in no load open-end or closed-end investment companies or investment trusts provided the conditions and requirements of Sections 6-5-10 (4) and (6) and 12-45-220 (4) and (6) are satisfied.

TO: Honorable Catherine L. Gibson
Cherokee County Treasurer

FROM: Joe L. Allen, Jr. *[Signature]*
Chief Deputy Attorney General

QUESTION: May a county treasurer invest surplus funds in a certificate of deposit or in a no-end or open-end investment company or investment trust?

APPLICABLE LAW: Sections 6-5-10 and 12-45-220, South Carolina Code of Laws, 1976, as amended.

DISCUSSION:

The two sections provide authority for a county treasurer to invest surplus funds in certificate of deposit and in mutual funds. The authority, however, is limited and conditional.

Investments may be made in a certificate of deposit when the certificate is collaterally secured by obligations of the United States or its agencies and when fully guaranteed by the United States and bonds of the state or its political subdivisions. The securities above listed must be held by a third party as escrow agent or custodian and must have a market value not less than the amount of the certificates of deposit that are secured plus interest.

The collateral is not required when the certificates are in-

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sured by an agency of the federal government.¹

A treasurer may also invest surplus funds in "no load open-end or closed-end" management type investment companies or investment trusts registered under the Investment Company Act of 1940 as amended.²

There are limitations and conditions before such investments can be made. First, the company must be registered under the Investment Company Act of 1940. Second, the investment must be made by a bank or trust company or savings and loan association or other financial institution. Third, it must be acting as trustee or agent for a bond or other debt issued by your local government unit. Fourth, the particular portfolio of the investment company or investment trust in which the investment is made must be comprised of (a) obligation of the United States or its agencies; (b) general obligations of the State of South Carolina or any of its political subdivisions; or (c) repurchase agreements when collateralized by securities set forth in Section 6-5-10. Fifth, the investment company or investment trust must have as its objective the attempt to maintain a constant net asset value of one dollar a share and to that end value its assets by the amortized costs method.³

¹Funds deposited in a savings and loan are insured for no more than one hundred thousand dollars.

²Such an investment is interpreted to be an investment in mutual funds. To the extent that mutual funds may include other investments this opinion is restricted to those investments herein considered.

³It is suggested that a treasurer who contemplates investing funds as provided by Section 6-1-10 (4) and (6) and 12-45-220(4) and (6) require proof of compliance with the conditions of these sections prior to the investment.

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CONCLUSION:

A county treasurer may invest surplus funds in certificates of deposit and in no load open-end or closed-end investment companies or investment trusts provided the conditions and requirements of Sections 6-5-10 (4) and (6) and 12-45-220 (4) and (6) are satisfied.

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