



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 3, 1978

ATTORNEY GENERAL OPINION NO. 78- 1

Mr. Payne H. Ratner, Jr.
Attorney for Bank Commissioner
403 Columbian Title Building
820 Quincy Street
Topeka, Kansas 66612

Re: Public Funds--Securities--Pledgability

Synopsis: Shares or units of a mutual fund, the assets of which consist entirely of general obligation and revenue bonds of municipal and quasi-municipal corporations which are themselves eligible to be pledged as security for the deposit of public funds under K.S.A. 1977 Supp. 9-1402, are not authorized to be accepted as security for the deposit of public funds under that section.

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Dear Mr. Ratner:

You inquire concerning the pledgability of shares in certain mutual funds as security for public deposits under K.S.A. 1977 Supp. 9-1402.

You advise that in 1976, the United States Congress authorized the creation of municipal bond mutual funds, and apparently the establishment of such funds is being considered in Kansas.

It is proposed that the pledged security would consist of shares or units of a managed open-end mutual fund, the assets of which would consist only of bonds of Kansas municipal and quasi-municipal corporation. The proposed mutual fund would be designed such that units of \$10,000 would be for sale only to Kansas state and national banks. The bonds comprising the fund assets would be restricted only to those bonds which were themselves pledgable under the cited statute.

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K.S.A. 1977 Supp. 9-1402 provides that securities which are pledged to secure the deposit of funds of a municipal or quasi-municipal corporation thereunder shall consist of

"direct obligations of, or obligations that are insured as to principal and interest by, the United States of America, or of any agency thereof, or bonds of the state of Kansas, or general obligation bonds of any municipal or quasi-municipal corporation thereof, or revenue bonds if approved by the state bank commissioner . . . of any municipal corporation or quasi-municipal corporation thereof"

Any security to be pledgable under this section must fall in one of the enumerated classes of securities. A share in a mutual fund, the assets of which consist entirely of general obligation or revenue bonds of a municipal or quasi-municipal corporation, is not itself a general obligation or revenue bond. The fact that the assets of the mutual fund are eligible for pledging does not constitute a share in that fund itself a pledgable security, unless the pledged security itself is enumerated as authorized by this section to be pledged as security for public funds and, of course, mutual fund shares are not enumerated as authorized securities which are statutorily eligible to be pledged for that purpose. Accordingly, in my judgment, shares in such a proposed mutual fund do not constitute pledgable securities under K.S.A. 1977 Supp. 9-1402.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj