

Opinion No. 47-5087

October 10, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. Waldo Spiess, Attorney at Law, Las Vegas, N. M.

{*96} As a member of the Board of Directors of the New Mexico State Hospital, you ask for an opinion on the following matter:

You state that the Hospital has deposited a large amount of money with The Las Vegas Savings Bank; that, in order to secure this deposit, The Las Vegas Savings Bank has deposited bonds with a Kansas City bank to be held by such bank under an escrow agreement providing that the bonds are to be used in the event The Las Vegas Saving Bank fails to meet a demand upon it.

The procedure for handling securities to secure moneys of state institutions is set forth in Section 7-216, 1941 Compilation, and the following sections. These sections provide for the delivery of the securities to the board of finance of the institution and then deposited with the Treasurer having custody of the funds secured.

A form of assignment of the securities, together with the receipt and contract, is set forth in Section 7-217. Only two exceptions are made to this procedure. By Section 7-220. the State Board of Finance is authorized, by general or special regulations, to provide for the safekeeping of securities in any Federal Reserve Bank or branch thereof, or in any other bank outside the boundaries of this state.

Mrs. Blanche Lucero, Secretary of the Board of Finance, advises me that the Board of Finance has never made any regulation with respect to the deposit of securities in banks outside of the State of New Mexico.

In view of the foregoing, it is my opinion that the procedure adopted by the Board, by which securities were deposited in an out-of-state bank under escrow agreement, is not in compliance with the statute.

You must either follow the procedure detailed in Section 7-216, etc., or induce the State Board of Finance to promulgate a regulation authorizing such an escrow agreement.

By ROBERT W. WARD