



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Charley Lookhart  
State Treasurer  
Austin, Texas

Dear Sir:

Opinion Number 0-1093  
Re: Can a bank deposit bonds  
with another bank under trust  
receipt running to the State  
Treasurer instead of sending  
the actual securities to the  
State Treasurer?

We are in receipt of your letter of July 3, in which you request the opinion of this department on the above captioned question.

The pertinent laws are found in Article 4932, et seq., of the Revised Civil Statutes of 1925, and it seems clear that the intention of the Legislature was to require the deposit of the securities, themselves, with the State Treasurer. Chapter 16, Section 2, of Title 78, Articles 4962 to 4966, plainly contemplates that the State Treasurer shall hold securities in trust against the violation of the powers therein granted to such persons, association of persons, State banking corporations, etc., and it must be presumed that the Legislature did not intend to authorize the establishment of any other custodianship such as was provided under the State Depository Act. It was within the power of the Legislature to have so provided, but for reasons best known to itself such provision was not made.

You are, therefore, advised that in our opinion the State Treasurer does not have the authority to permit the deposit of bonds with another bank under trust receipt running to him, instead of requiring the securities themselves

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to be deposited with him, pursuant to the laws cited above  
and applicable thereto.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Clarence E. Crowe*  
Clarence E. Crowe  
Assistant

CEC-s  
APPROVED JUL 10, 1939

*W. J. Moore*  
FIRST ASSISTANT  
ATTORNEY GENERAL

