



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. William J. Lawson
Secretary of State
Austin, Texas

Attention: Mr. C. P. Sanders

Opinion No. O-4522

Re: Investments for funds of
perpetual care cemeteries.

Dear Sir:

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"This Department is in receipt of an inquiry regarding the eligibility of the sinking fund bonds issued by the Sabine Royalty Corporation as an investment of the funds of the perpetual care cemeteries which are required to file annual reports with the Office of the Secretary of State.

"We would appreciate very much having the benefit of your opinion as to the legality of these bonds as an investment by a perpetual care cemetery, and we are enclosing our file with reference to this matter for your study. Please return this file to us after your department has finished with it.

"If you desire any further information regarding the nature of this corporation, please let us know and we will be glad to supply you with such information as we have available."

Article 926, Vernon's Annotated Texas Civil Statutes, provides for the investment of funds of perpetual care cemeteries. The article provides:

"Perpetual care funds shall not be used for any other purpose than to provide through the income only therefrom the perpetual care stipulated in the resolution, by-law or other action or instrument by which the fund was created or established, and it shall be the duty of the board of directors of the association in charge thereof, and its duly appointed trustee to invest, reinvest and keep such funds invested in bonds of the United States or the State of Texas or of any county, city, or other political subdivision of the State of Texas, or in first mortgages or on improved real estate, or in bonds legal for investment for savings banks, or trust companies in this State."

Articles 416, 1187a-9, 842 and 1269k-1, V.A.C.S., provides for the investment of the funds of savings banks of this State. The articles are rather lengthy and will not be quoted here, but it will suffice to say here that the bonds of the Sabine Royalty Company will not qualify as bond investments for savings banks of this State under any of said articles.

Article 4986, Vernon's Annotated Texas Civil Statutes, provides that the laws governing banks and banking corporations shall apply to trust companies where not inconsistent with the statutes relative to trust companies. Article 5890b, Vernon's Annotated Texas Civil Statutes, authorizes trust companies, as well as many other corporations and bodies politic) to invest their funds in National Guard Armory Bonds. Article 511, Vernon's Annotated Texas Civil Statutes, provides that the type and kind of bonds which banks and bank and trust companies of this State may invest in are as follows:

"Public bonds of the United States or of this State or in the bonds of any incorporated city, county or independent school district in this State."

After a careful analysis of the above referred to statutes, it is our opinion that the sinking fund bonds of Sabine Royalty Corporation are not eligible as an investment

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for the funds of perpetual care cemeteries under Article 926,
V.A.C.S., and other pertinent statutes.

Pursuant to your request we are returning herewith
your file in the matter.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By s/Wm. J. Fanning
Wm. J. Fanning
Assistant

APPROVED May 19, 1942

Gerald C. Mann
Attorney General of Texas

Approved Opinion Committee
By BWB, Chairman

WJF:AMM:bt