

COUNTIES: A county is not authorized by law  
COUNTY DEPOSITORIES: to enter into repurchase  
COUNTY FUNDS: agreements.  
COUNTY INVESTMENTS:  
COUNTY TREASURY:  
INVESTMENT OF COUNTY FUNDS:  
INVESTMENTS:

December 2, 1992

OPINION NO. 192-92

The Honorable Norwood Creason  
Representative, District 28  
State Capitol Building, Room 303A  
Jefferson City, Missouri 65101

Dear Representative Creason:

This opinion is in response to your question asking:

Under the provisions of Article VI, Section 25 of the Constitution of the state of Missouri, may a county enter into a repurchase agreement with a banking company whereby from time to time the parties may enter into transactions in which the bank agrees to transfer to the county securities or financial instruments against the transfer of funds by the county, with a simultaneous agreement by the county to transfer to the bank such securities at a date certain or upon demand, against the transfer of funds by the bank?

The general rule regarding the powers of counties is:

A county can exercise the following powers and no others: (1) those granted in express words; (2) those necessarily or fairly implied in or incident to the powers expressly granted; and (3) those essential to the declared objects and purposes of the corporation. Any fair, reasonable doubt concerning the existence of power has been resolved by the courts against the corporation and the power is denied.

The Honorable Norwood Creason

American Aberdeen Angus v. Stanton, 762 S.W.2d 501, 503 (Mo. App. 1988), citing Lancaster v. County of Atchison, 352 Mo. 1039, 1044, 180 S.W.2d 706, 708 (banc 1944).

We have reviewed the statutes relating to county funds and find no authorization for a county to enter into a repurchase agreement. In some instances the General Assembly has authorized investment in repurchase agreements. See, e.g., Section 30.260, RSMo Supp. 1991 (state treasurer) and Section 165.051, RSMo, as amended by House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 581, 86th General Assembly, Second Regular Session (1992) (school districts). See also Missouri Attorney General Opinion No. 107-92, a copy of which is enclosed. There is no comparable statutory authority for counties to enter into repurchase agreements.

Because we conclude a county is not statutorily authorized to enter into repurchase agreements, it is not necessary to examine your constitutional question.

CONCLUSION

It is the opinion of this office that a county is not authorized by law to enter into repurchase agreements.

Very truly yours,



WILLIAM L. WEBSTER  
Attorney General

Enclosure: Opinion No. 107-92