



OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

April 9, 1973

OPINION LETTER NO. 132

Honorable James I. Spainhower
State Treasurer
State Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Spainhower:

This is in response to your request for an opinion as to whether or not the state can accept for security from banks holding state deposits student loans guaranteed by the United States Government.

Section 30.270, sub. 1, RSMo 1969, requires banks in Missouri holding state funds to pledge securities equal to at least 110% of the total amount of state funds on deposit. Among the types of securities which can be selected are ". . . bonds or other obligations guaranteed as to payment of principal and interest by the government of the United States or any agency or instrumentality thereof," Section 30.270, sub. 1(12), RSMo 1969.

This opinion deals with the legality of accepting student loans as security for the deposit of state funds. It will not deal with the wisdom of accepting these loans as security, which is a matter left by statute to the Governor, the State Auditor, and the State Treasurer.

The United States set up a guaranteed student loan program by the Higher Education Act of 1965 (P.L. 89-329). In response to this Act, Missouri enacted legislation to implement the student loan program in Missouri. Sections 173.095-173.190, RSMo 1969. Under the provisions of the state act, loans could be made to eligible students by banking institutions in this state with the guarantee by the Missouri Commission on Higher Education that the banking institution would be paid the amount of the loss on any guaranteed loan in the event of student default. Section 173.110, RSMo 1969. Under

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the provisions of P.L. 89-329, the federal government then agreed to reimburse the Missouri Commission on Higher Education for 80% of the principal paid on defaulted loans.

However, it is our information that the Missouri Commission on Higher Education is no longer guaranteeing repayment of student loans. As of March 1, 1973, student loans are now being guaranteed by the United States Commissioner of Education under the provision of P.L. 92-318, the educational amendment of 1972 to the Higher Education Act of 1965. Section 132B of this Act indicates that the liability of the United States Commissioner of Education on any default of a loan insured under this Act will be 100% of the unpaid balance of the principal amount of the loan plus interest.

It seems clear that the former student loans do not meet the requirements of Section 30.270, sub. 1(12). Assuming that they are bonds or other obligations, they are not guaranteed as to payment of principal and interest by the government of the United States, but guaranteed by the Missouri Commission on Higher Education with the provision for reimbursement by the federal government for an amount equal to 80% of the loss of principal. However, as of March 1, 1973, student loans under the Higher Education Act of 1965 as amended are guaranteed by an agency of the United States Government. Such a loan guaranteed as to the payment of principal and interest by the United States Commissioner of Education in the event of default would be proper security for the deposit of state funds.

Yours very truly,



JOHN C. DANFORTH
Attorney General