

3. Yes, except as hereinabove stated.
4. Yes, except as hereinabove stated.

The foregoing opinion is applicable only to the facts stated in your letter and is not intended to imply that all leases executed by cities and towns are subject to the provisions of Burns' 53-108.

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OFFICIAL OPINION NO. 49

December 5, 1956

Dr. B. W. Johnson  
Executive Secretary  
Indiana State Teachers' Retirement Fund  
145 West Washington St.  
Indianapolis, Indiana

Dear Doctor Johnson:

Your letter of November 2, 1956, requesting an Official Opinion, reads as follows:

"The Indiana State Teachers' Retirement Fund Board desires your official opinion as to the legality of purchasing Federal Land Bank Bonds that are issued by the Federal Land Banks with farm mortgages as their basic security, and Capehart Loans which are authorized by Public Law 345 (84th Congress).

"It appears to the above mentioned board that these securities may fall in the category of Government Securities which it is allowed to purchase. Attached to this letter is a letter received from Scudder, Stevens & Clark, the board's Investment Counsel, which is self-explanatory."

The classification of securities in which your Board may invest such funds is made by Acts of 1915, Ch. 182, Sec. 11, as amended, as found in Burns' Indiana Statutes (1948 Repl., 1955 Supp.), Section 28-4508. An examination of its provisions reveals that clauses (1) and (2) of said statute are applicable to your questions, and provide as follows:

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“(1) In bonds, notes, certificates and other valid obligations of the United States;

“(2) In bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States.”

It is therefore necessary to determine if the bonds referred to in your two questions are either direct obligations of, or are fully guaranteed by the United States.

The securities you refer to as “Capehart Loans” are authorized by the 84th Congress, being Public Law 345, Section 801 *et seq.*, page 4498 of the 1955 U. S. Code Congressional and Administrative News, wherein under Section 803 (f) of said Act, found on pages 4502 and 4503 of said reference, it is provided:

“\* \* \* They shall be paid out of the Armed Services Housing Mortgage Insurance Fund, which shall be primarily liable therefor, and *they shall be fully and unconditionally guaranteed as to principal and interest by the United States*, and such guaranty shall be expressed on the face of the debentures. \* \* \*” (Our emphasis)

It would therefore appear that Capehart Bonds are securities in which your Board is authorized to invest such Teachers' Retirement Funds under the conditions prescribed by your statute.

As to Federal Land Bank Bonds, these are provided for by the Congressional Act of July 17, 1916, Ch. 245, as amended, as found in 12 U. S. C. A., § 641 *et seq.* It is provided in Section 32 of that Act, 12 U. S. C. A., § 992, that one issue shall be “fully and unconditionally guaranteed as to *interest* by the United States, and such guaranty shall be expressed on the face thereof.” (Our emphasis)

We are informed by counsel for the Federal Land Bank of Louisville that the only indication of a guarantee is to be found in the aforementioned 12 U. S. C. A., § 992, and

“There are now, and for many years there have been, no bonds outstanding, issued either individually by the

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Federal Land Banks or as the consolidated obligation of all of such banks, which are guaranteed by the United States under the provisions of that section.”

It was held that the Federal Land Bank is a federal instrumentality in Federal Land Bank of St. Paul v. Bismarck Lumber Co. (1941), 314 U. S. 95, 102, 86 L. Ed. 65, 62 S. Ct. 1.

As the Indiana State Teachers' Retirement Fund is permitted to invest in securities issued by federal instrumentalities only when the same are fully guaranteed by the United States, I am of the opinion that your Board is not authorized to invest Teachers' Retirement Funds in Federal Land Bank Bonds.

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OFFICIAL OPINION NO. 50

December 5, 1956

Hon. Ora A. Kincaid  
State Representative  
128 W. Fordice Street  
Lebanon, Indiana

Dear Representative Kincaid:

This is in response to your request for my Official Opinion in answer to the following questions:

“The question has arisen in the City of Lebanon on whether a City, in an Annexation Ordinance, has the authority to specify that unplatted farm land included in an Annexation must be assessed for tax purposes as farm land is assessed in Rural territory. That is, no increase in assessment would be made by reason of the fact that farmland is within the municipal boundaries. The wording in the Ordinance is as follows:

‘Any land in said annexed territory which is now used for agricultural purposes shall be assessed as agricultural land is assessed in rural territory, until it is subdivided for residential or commercial purposes. Said land may continue such agricultural use until such time as it is subdivided for residential or commercial purposes.’