
The answer to your second question, I think, should be in the negative. However, your attention is called to the fact that they would not be eligible for deposit to meet the requirements of Section 153 of the Act. The eligible investments for such deposits are set out in Section 147 of the Act, which section does not include notes such as are referred to in your second question.

Your third question depends upon so many factors of which I have no knowledge that I am unable to answer it other than to say that I am informed that the company has been licensed to do business in the State. If it is deemed necessary for your purposes and you will submit the question with respect to certain definitely defined proceedings, I shall endeavor to be more specific.

PRINTING, BUREAU OF PUBLIC: Foreign firm or corporation, letting public printing contract to, if plant is within state.

January 12, 1940.

Mr. Parke Beadle,
Director, Bureau of Public Printing,
Indianapolis, Indiana.

Dear Sir:

Your letter of January 3rd, asks for an interpretation of Section 6 of Chapter 109, Acts of the General Assembly, 1939, in connection with several questions, the first of which reads:

"Is a firm or corporation of a foreign state with manufacturing plants or warehouse facilities within the State of Indiana entitled to bid upon and be awarded contracts for articles enumerated in the Bureau of Public Printing proposal? If so, would each and every article bid upon be required to be manufactured within the State of Indiana or could a part or all of the articles be shipped into Indiana by the foreign corporation or firm and in turn be delivered from the Indiana warehouse or manufacturing plant?"
Insofar as pertain to your questions, the provisions of Section 6 read:

“All printing, lithographing, binding, stationery, printing materials and office supplies shall be pur- chased at fair market prices as needed, with a mini- mum of one year’s requirements in advance whenever possible and economical and practical. Before all pur- chases the director of public printing purchases shall inform prospective bidders and do all things necessary to secure advantageous bids for the printing, litho- graphing, binding, stationery, printing materials or office supplies to be purchased. Contracts for printing, lithographing, binding, electrotypes and engraving shall be awarded by the Bureau of Public Printing to the lowest responsible bidder who owns, maintains and operates a plant in the State of Indiana where the work under contracts will be performed, and who shall use printing materials purchased from persons, firms or corporations whose principal place of business is in the State of Indiana and contracts for all other printing materials and office supplies shall be awarded by the Bureau of Public Printing to the lowest respon- sible bidder, whose principal place of business is lo- cated in the State of Indiana, taking into consideration the qualities of the articles proposed to be supplied, their conformity with the specifications, the purposes for which required, and the terms of delivery: Pro- vided, however, No contract shall be awarded to any bidder under the terms of this act, unless the hourly wages of the mechanical employees in the plant of said bidder shall be not less than 90% of the average of the prevailing hourly wage rates paid within the print- ing industry in metropolitan areas in the State of Indiana as defined in the most recent U. S. Census: Pro- vided, however, That no contract shall be awarded to any bidder whose plant lies within any county con- taining cities of the first class, who does not pay to his or its mechanical employees the prevailing rate of hourly wages paid in such cities of the first class.”

Your first question refers to “articles enumerated in the Bureau of Public Printing proposal.” Since these articles
involve different classes of work as provided for in Section 6, it will be necessary to answer your question by referring to different parts of the third sentence of Section 6.

Directing your attention to such third sentence, it may be said that a bidder only "who owns, maintains and operates a plant in the State of Indiana" may bid upon contracts "for printing, lithographing, binding, electrotypes and engraving", if also meeting the requirements, as to wage scale, set out in the first and second provisos of such section. This would apply to either a foreign or domestic bidder, the test being whether a plant is owned and operated by the bidder in Indiana.

The second part of your question is answered by saying that such work as bid upon would be required to be done or manufactured within Indiana. Part of the work to be done outside the state and shipped in, would defeat the evident purpose of the statute, namely, to give work to Indiana plants, at certain wages as fixed in the provisos.

It is to be observed that what has just been said, has had reference to the work turned out upon contracts for printing, lithographing, binding, electrotypes and engraving; it is sufficient if the printing materials, used in connection with that work, are purchased from persons, firms or corporations upon the one condition only that their "principal place of business is in the State of Indiana." Then, your attention is directed to the latter part of such third sentence of Section 6, relating to "contracts for all other printing materials and office supplies." The only condition to be met by bidders for work upon such contracts is likewise that their principal place of business be located in Indiana.

As to "printing materials purchased", and work done upon "contracts for all other printing materials and office supplies", referred to in the preceding paragraph, the place of manufacture would be immaterial, whether within or without the State, so long as those furnishing the materials or the work in question were persons, firms or corporations having their principal place of business within the State.

The second question of your letter reads as follows:

"Assuming that an employer complies with the wage and hour provisions of the Act, but the employees work under various wage brackets can the employer
transfer his employees from one department to another and pay in accordance with the prevailing wage in each bracket?"

Any such arrangement would in no way violate any of the provisions of the law provided the required wage scale is paid for the particular work performed.

Your letter presents a third question, namely:

"Section 6 provides that contractors for State printing and various other materials, located in counties containing cities of the first class (Marion County) shall pay the full prevailing wage scale, while contractors in the State outside of the above named area (Marion County) shall pay 90% of the average prevailing wage.

"Is it within the power of the General Assembly to discriminate between areas, districts or sections of the State as to salaries or wages to be paid by those bidding upon State work such as is enumerated in the Act?"

It answers your question to say that the State may classify as to areas, cities or other districts or communities, as well as in other respects, for legislative purposes. A general rule of law is that classification for the purposes of legislation is primarily for the Legislature to determine and is never a judicial question if the classification can under any circumstances be viewed as reasonable.

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INSURANCE, DEPARTMENT OF: Assessment life insurance company, authority to transfer charter rights and insurance to another company.

January 16, 1940.

Mr. Geo. H. Newbauer,
Commissioner, Department of Insurance,
Indianapolis, Indiana.

Dear Sir:

Your letter of December 28th, is accompanied by a file of certain papers pertaining to the reinsurance of the policy