

OPINION 8

OFFICIAL OPINION NO. 8

June 19, 1975

Honorable Robert D. Orr
Lieutenant Governor
333 State House
Indianapolis, Indiana 46204

Dear Lieutenant Governor Orr:

This is in response to your request for my official opinion as to whether the constitutional debt limitation applies to a proposed loan from the Industrial Development Fund to the civil Town of Argos pursuant to the provisions of the Indiana Code of 1971, Sections 18-7-15-1 *et seq.*

ANALYSIS

Article 13, Section 1, of the Indiana State Constitution provides, in significant part, as follows:

"No political or municipal corporation in this State shall ever become indebted in any manner or for any purpose to an amount in the aggregate exceeding two percentum of the value of the taxable property within such corporation, to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness; and all bonds or obligations, in excess of such amount, given by such corporations, shall be void. . . ."

The effect of this limiting provision has been mitigated by a long line of Indiana Supreme Court cases which hold that the two percent debt limitation applies to each municipal corporation individually and not in the aggregate to all municipal corporations which may cover the same geographical area and same taxpayers. (See, for example, *City of Indianapolis v. Buckner* (1954), 233 Ind. 32, 116 N.E. 2d 507.) Thus, the debts incurred by special taxing districts within a city, for example, are not general obligations of the civil city itself. But, of course, each of those taxing units has the same two percent debt limitation.

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The Indiana Code of 1971, Section 18-7-15-1(a) does indicate that an Industrial Development Fund loan is available not only to a civil city or town but also to any special taxing district. However, your opinion request indicates that the loan would be made to the civil town of Argos, not to any special taxing district, and, therefore, its repayment would become an obligation of that municipality. (See Indiana Code of 1971, Section 18-7-15-10.)

CONCLUSION

It is, therefore, my Official Opinion that a loan to the Town of Argos from the Industrial Development Fund must be made within that civil town's constitutional debt limitation.