of deposit transactions shall be governed by and in compliance with the public depositories laws of Indiana, except that interest derived from the investments shall become a part of the funds invested and will not become a part of the general fund of the State of Indiana.”

Any sewage disposal plant which has been established and is operating pursuant to Burns §§ 48-4301–48-4324, clearly qualifies for the provisions set forth in the Acts of 1965, ch. 357, § 1.

Section 1, ch. 357 of the Acts of 1965, Burns IND. STAT. ANN., (1965 Supp.), § 48-7241, expressly authorizes the investment or reinvestment of “surplus monies” of any utility. Operating funds, bond and interest redemption funds, cumulative building and sinking funds are such funds which qualify for the provisions of the Act.

Whether a particular fund qualifies for the provisions of this Act depends upon whether a surplus exists within the fund. The purpose for which the fund was created or the name bestowed upon it is immaterial.

Therefore, the answer to both of your questions is in the affirmative.

OFFICIAL OPINION NO. 48
October 15, 1965

Hon. John D. Bottorff
Secretary of State
201 State House
Indianapolis, Indiana

Dear Mr. Bottorff:

This is in response to your letter of recent date requesting an Official Opinion as to whether the owner of a collection agency, with the collection agency license in his name may make a valid assignment of the license to another person.

Collection agencies are subject to regulation in this state and must have a license to operate. Ind. Acts of 1937, ch. 92,
as amended, Acts of 1955, ch. 304, §§ 4, 7 and 12, Burns IND. STAT. ANN., (1964 Supp.), as found in § 42-1804, states:

“The following qualifications shall be required of all individual applicants and of any individual who is an officer of any corporation or a member of any partnership or firm and actively manages the collection of or solicits accounts for collection for any firm, partnership, or corporation which makes an application for a collection agency license:

“(1) The applicant shall be a citizen of the United States, of good moral character and not less than twenty-one [21] years of age;

“(2) He shall not have been convicted of any crime involving moral turpitude;

“(3) He shall not have had a record as a defaulter in the payment of money collected or received for another; and

“(4) He shall not be a former licensee under the provisions of this act whose license has been suspended or revoked and was not subsequently reinstated under the provisions of this act.

“The applicant to whom the license applied for is to be issued shall meet the financial responsibility and bonding requirements hereof and shall agree to maintain at least one office in this state for the conduct of his business.”

Section 42-1807 (1) provides, in part, as follows:

“(1) It is unlawful for any person to conduct, within this state, a collection agency without first having applied for and obtained a license under the provisions of this act.”

Section 42-1812, provides:

“Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding five hundred dollars [$500], or imprisoned for any period

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not exceeding six [6] months, or by both such fine and imprisonment.

“If a corporation violates any of the provisions of this act the corporation shall be fined in any sum not exceeding five hundred dollars [§500].

“The prosecuting attorney of any judicial circuit of this state, upon the complaint of the secretary of state, shall prosecute all violations of this act occurring within his jurisdiction.”

As a general rule, “a license generally is regarded as a special privilege of personal trust and confidence which cannot be assigned or transferred without the consent of the licensing authorities. . . .” After a transfer without such consent the license is inoperative; but the agreement making the transfer is not illegal. . . .” 53 C.J.S., § 45.

The Indiana Act impresses the Secretary of State with the duty to ensure a specified standard of character of those authorized to operate a collection agency. The license is personal in nature. This does not, however, mean that it may not be assigned, but that its assignment renders it void. An attempt by the assignee to operate under the void license would subject him to the penalty provisions of this act. Godfrey v. State, 5 Blackf. 151 (1839).

Therefore, it is my opinion that the license may be assigned, but such assignment renders the license inoperative and void.

OFFICIAL OPINION NO. 49

October 18, 1965

Mr. Richard L. Worley
State Examiner
Indiana State Board of Accounts
912 State Office Building
Indianapolis, Indiana 46204

Dear Mr. Worley:

This is in response to your letter of recent date requesting an Official Opinion regarding the following question: