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is not thereby deprived of the authority to classify its patients as to type of care required, such as surgical, obstetric, orthopedic, geriatric, etc., and as to degree of care required, such as intensive care, ordinary care, and minimum care. There is no apparent statutory prohibition against a county hospital's physically grouping patients in a manner convenient to the hospital, either as to type of care or degree of care.

Your second question cannot be answered categorically, because the answer will depend upon the nature of the care offered by, and the structure of, the facility.

In my opinion, a county hospital operating under the 1917 Hospital Act may not have the authority to acquire, operate and maintain with public funds a "nursing home" completely separate in operation from the hospital, for the care of aged persons who do not require medical and physicians' services. Such a county hospital may, however, acquire, operate and maintain a separate facility, as a part of its hospital operation, for the care of those patients who require medical services and services of a physician, and may place in said separate facility those patients who require less intensive physicians' and medical services than other patients in the county hospital.

OFFICIAL OPINION NO. 8

May 3, 1965

Mr. B. B. McDonald, State Examiner
Indiana State Board of Accounts
912 State Office Building
Indianapolis, Indiana

Dear Sir:

This will acknowledge your letter of recent date, in which you request my Official Opinion on the following questions concerning Acts 1965, ch. 357, which authorizes any town operating one or more utilities to invest surplus utility funds for any single account to an amount of ten thousand dollars. Your first question reads as follows:

"1. May such funds be invested in a bank which has not been designated as a depository for the town's
funds pursuant to Chapter 3, Acts of 1937, as amended?"

The answer to your first question is "No." The provisions of the Acts of 1965, ch. 357 are quite clear and unambiguous in stating that:

"... all savings deposits and time certificates of deposit transactions shall be governed by and in compliance with the public depositories laws of Indiana, ..." (Emphasis added.)

Moreover, The Indiana Depository Act of 1937, the same being found in Burns IND. STAT. ANN., §§ 61-601 to 61-629 inclusive, reads, in part, as follows:

"61-624. Deposit of public funds.—(a) All public funds paid into the treasury of the state, or the treasuries of the respective counties, cities, towns, school cities, school towns and municipal corporations shall be deposited daily in one [1] or more depositories in the name of the state or municipal corporation by the officer having control thereof. . . ."

The term "public funds" is defined in Burns § 61-622 (e), supra, which reads, in part, as follows:

"(e) The term 'public funds' means and includes all funds coming into the possession of the treasurer of state, treasurer of the board of trustees of any state benevolent, penal or educational institution, and all funds coming into the possession of any state officer by virtue of such office, and all funds coming into the possession of any local officer by virtue of such office, . . ."

The term "municipal corporation" is defined in Burns § 61-622 (d), supra, as follows:

"(d) The term 'municipal corporation,' or the plural thereof, means all political subdivisions or municipal corporations of the state of Indiana, including, but not in limitation of the foregoing, counties, cities, towns, townships, school cities, school towns, school
townships, taxing districts and special assessment districts."

It seems quite clear, therefore, that any governing body of any town which receives town utility monies, if it invests such money, must do so in a depository selected pursuant to the Depository Act as hereinbefore alluded to.

Your second question is stated thusly:

"2. May such funds be invested in a building and loan company?"

The answer to your second question is also "No." A building and loan association cannot qualify as a public depository for funds in the hands of county clerks, or for public funds of any kind. 1938 O.A.G., p. 138. Moreover, Acts of 1965, ch. 357 only authorizes the investment or reinvestment of surplus utility monies in savings accounts or saving certificates with the following proviso:

"...That all savings deposits and time certificates of deposit transactions shall be governed by and in compliance with the public depositories laws of Indiana, ... ."

Since building and loan associations do not qualify as public depositories, such funds may not be invested therein.

With respect to Questions 3 and 5, I assume that you desire an interpretation of the Act only if the answers are in the affirmative. Having given negative answers in each instance, I am, therefore, not answering the said questions in this Opinion.

Your fourth question asks:

"4. Does the term 'single account' as used in the Act mean:

"a. One (1) investment of ten thousand dollars by any one town?

"b. One (1) investment of ten thousand dollars by each utility of a town?"
Acts of 1965, ch. 357, states, in part:

"The governing body of any town operating one of more utilities may, by ordinance or resolution, authorize officers charged by law with custodial care, expenditure, and investment of town utility monies to invest or reinvest surplus monies of any such utility in savings deposits or time certificates of deposit but in amounts of not to exceed ten thousand dollars ($10,000.00) for any single account, investment or reinvestment and for such period of time as the governing body of the town may determine." (Emphasis added.)

In my opinion the term "single account" means neither of the above. To limit a town to either one investment of ten thousand dollars, or to only one investment of ten thousand dollars per utility is unnecessarily restrictive and is not required by the wording of the Act set out immediately above. The Act states that surplus monies of town utilities may be invested "... but in amounts of not to exceed ten thousand dollars ($10,000.00) for any single account, investment or reinvestment. ..." The use of the words "amounts" and "any single account" supports the interpretation that more than one account is contemplated. If this view is sound, then there might be several utilities, each of which could make one investment, or that each investment must be only ten thousand dollars. Since either interpretation is equally tenable, that interpretation should be selected which aids in furthering the purposes of the Act. Since the purpose of the Act is to provide for the investment of surplus funds, and since each utility might have more than ten thousand dollars of surplus funds to invest, that interpretation is preferable which holds that there may be as many investments as desired, but that each investment must not exceed ten thousand dollars.

In summary hereof, it is my opinion that:

(a) a bank which has not been designated as a depository for utility funds pursuant to Acts of 1937, ch. 3, as amended, is not qualified to accept said public funds for investment purposes;
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(b) said utility funds may not be invested in a building and loan company; and

(c) the Act contemplates as many investments as are possible from the surplus funds for investment purposes, with the sole limitation that each investment must not exceed ten thousand dollars.

OFFICIAL OPINION NO. 9

May 7, 1965

Hon. Richard C. Bodine, Speaker
Indiana House of Representatives
208 First National Bank Building
Mishawaka, Indiana

Dear Mr. Speaker:

This is in reply to your request for an Official Opinion which reads as follows:

[H.B. 1190]*

"The title of the above captioned Bill is as follows: 'A Bill for an Act to amend an Act concerning township assessors, county assessors and township trustees when acting as assessors, their deputies and other employees and their salaries, wages, compensations and per diem.' (Emphasis added.)

* * *

"Could you render us an opinion as to whether this Act applies to persons in the office of the County Assessor, when acting as assessors, who are deputies or other employees of the County Assessor."

House Enrolled Act No. 1190, 1965, titled "An Act to amend an Act concerning township assessors, county assessors and township trustees, their deputies and other employees and their salaries, wages, compensations and per diem," (emphasis added) is an amendment to Acts of 1949, ch. 245, §4, as amended by Acts of 1957, ch. 211, §1, as found in

* Our insert.