

May 3, 1949.

HONORABLE FRANK DURAND,
State Auditor,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 50.

DEAR MR. DURAND:

I have had referred to me your request for an opinion in connection with the Veterans Loan Act (Chapter 126, P. L. 1944, as amended and supplemented).

The question is the amount of reserve necessary for approved guaranteed veterans' loans made pursuant to the above act.

We are of the opinion that twenty percent (20%) of the total face amount of all approved veterans' loans from time to time outstanding, plus such additional amounts as the Veterans Loan Authority shall set aside in its estimate as necessary for payment of approved guaranteed veterans' notes which may be submitted to it for purchase during a particular budget period, should be kept in a reserve fund for this purpose. The twenty percent (20%) reserve shall be computed pursuant to Section 14, Chapter 123, P. L. 1946, as hereinafter cited.

The parts of the statute applicable to these questions have in the most part been stated in your request for an opinion, and are as follows:

Section 5, Chapter 126, P. L. 1944, as Amended by Section 1, Chapter 185, P. L. 1945 and Section 5, Chapter 121, P. L. 1946:

"All capital and revenues of the authority shall be held in trust in a veterans loan guaranty and insurance fund, hereinafter referred to as the "fund," to meet the obligations of the authority under this act; but any amounts in the fund in excess of the total amount of guaranteed or insured loans outstanding at any time shall be subject to such disposition as may be provided by law. *Such amounts in the fund as the authority shall estimate are not needed for its current operations* shall be invested and reinvested by the State Treasurer in such obligations as are legal for savings banks of this State."

Section 7, Chapter 185, P. L. 1945:

"The authority is hereby authorized and empowered to insure or guaranty, whichever any bank may elect in accordance with the provisions of section eight hereof, all veterans' loans heretofore or hereafter made by such bank, to the extent provided in section nine or section ten hereof respectively."

Section 14, Chapter 121, P. L. 1946:

"The sum total of all reserve funds set aside by the authority in accordance with the provisions of section nine of chapter one hundred eighty-five of the laws of one thousand nine hundred and forty-five, *together with such amount as the commissioner may set aside, out of the veterans guaranty and insurance fund, to meet the payment by the authority of approved veterans' notes submitted to it for purchase in accordance with the provisions of sec-*

tion ten of chapter one hundred eighty-five of the laws of one thousand nine hundred and forty-five, shall in no event be less than twenty per centum (20%) of the total face amount of all approved veterans' loans from time to time outstanding."

Section 9, Chapter 185, P. L. 1945, provides for the setting up of a reserve fund for insured loans. This section states that there shall be set aside in a reserve fund to the credit of the banks making insured loans under the act, an amount equal to twenty percent (20%) of the total face value of all the bank's approved veterans' loans, and that the Veterans Loan Authority shall add to such reserve funds twenty percent (20%) of the amount of each veteran's loan thereafter made by such bank. It further provides that the fund shall at no time exceed the total face amount of all such bank's approved veterans' loans outstanding; and that in no event shall any payment be made by the authority to any bank beyond the total balance set aside as a reserve fund for such bank at the time of payment.

Section 10, Chapter 185, P. L. 1945, sets forth the procedure for the purchase of guaranteed loans by the Veterans Loan Authority. It states:

"In the event that a bank shall elect, pursuant to the provisions of section eight hereof, to have its veterans' loans guaranteed by the authority, then the authority shall purchase upon demand of such bank, to the extent of the resources of the veterans guaranty and insurance fund in excess of the total of all balances then held in reserve funds in accordance with the provisions of section nine hereof, any approved veteran's note which remains unpaid for thirty days after the date of maturity thereof, or on which any installment is more than three months in arrears, at a price equal to ninety per centum (90%) of the unpaid principal of such note." (Italics ours.)

Section 11 of Chapter 121, P. L. 1946, provides that the total amount of guaranty and insurance liability which may be outstanding at any time shall in no event exceed the sum of eleven million dollars (\$11,000,000).

It appears clear that the minimum required as a reserve for loans guaranteed under this act is twenty percent (20%) of the total face amount of all such approved veterans' loans outstanding.

As to insured loans, the act sets forth both a maximum and minimum reserve. Section 9 of the act provides that in no event shall the reserve fund for each bank for payment of insured loans be more than the total face amount of all such bank's approved veterans' loans outstanding; and section 14 of the act as referred to **herein** states that in no event shall the amount of the reserve, both as to guaranteed or insured loans, be less than twenty percent (20%) of the total face amount of all approved loans from time to time outstanding.

There is no maximum reserve provided for as to guaranteed loans; however, a reserve in excess of twenty percent (20%) should be maintained in cases where the Veterans Loan Authority estimates that additional amounts will be necessary for the purchase of defaulted guaranteed loans during a particular budget period.

The necessity for this additional reserve is indicated by the language of section 5, which contains a provision in referring to monies to be invested and reinvested by the State Treasurer, that these monies are not to include such amounts as the authority shall estimate are needed for current operations. The words "current operations" in our opinion include the estimated amounts necessary for the purchase of guaranteed veterans loans.

That this interpretation is correct is indicated by section 14, which provides for a minimum reserve of twenty percent (20%). This section states that the total of all reserve funds set aside for insured loans, together with the reserve set aside for guaranteed loans, including such amounts as the Veterans Loan Authority may set aside out of the entire fund as necessary to meet payments by it for the purchase of approved guaranteed loans, shall in no event be less than twenty percent (20%) of the total face amount of all loans from time to time outstanding.

It is our opinion that a reading of the sections above referred to clearly indicates that it was the intent of the Legislature that the Veterans Loan Authority should decide the amount of reserve necessary for the purchase of guaranteed loans, but that in no event should the overall reserve for all loans be less than twenty percent (20%), as above computed.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: CHESTER K. LIGHAM,
Deputy Attorney General.

CKL/f

May 17, 1949.

MR. GEORGE M. BORDEN, *Secretary,*
State Employees' Retirement System,
1 West State Street,
Trenton 7, New Jersey.

FORMAL OPINION—1949. No. 51.

MY DEAR MR. BORDEN:

I duly received your letter calling my attention to the fact that since April 24, 1937, all persons accepting employment in the classified service of this State after said date shall be required to join your retirement system. The classified service therein referred to means, of course, the classified service under the civil service law. In addition to these persons, you admit to membership in your fund other employees of the State who are not in the classified service.

I gather from your letter that with respect to withdrawal of accumulated deductions, you have been making a distinction between those in the classified service of the civil service and those who are in the unclassified service, the latter being permitted to withdraw at pleasure.

How long this practice has prevailed, I do not know, but in my view of the law this is immaterial because your statute on withdrawals (R. S. 43:14-29) is not of doubtful meaning and therefore is not subject to practical construction, (see *State vs. Kelsey*, 44 N. J. L. 1), for the section mentioned provides that "A member who withdraws from service or ceases to be an employee for any cause other than death or retirement" shall receive all or part of his accumulated deductions, with certain exceptions which need not here be noted.