

APRIL 15, 1954.

MR. GORDON S. KERR, DIRECTOR  
*Division of Investment*  
State House  
Trenton, New Jersey

## FORMAL OPINION 1954—No. 4

DEAR MR. KERR:

You request the opinion of this office as to the jurisdiction of the Division of Investment, Department of the Treasury, over the Unsatisfied Claim and Judgment Fund, established by Chapter 174, P. L. 1952 (N. J. S. A. 39:6—61 to 39:6—91, incl.).

In 1952 our Legislature enacted a series of laws, one of which was the statute above cited, for the general purpose of affording financial protection for persons suffering bodily injury or death, or property damage, as the result of motor vehicle accidents caused by the negligence of others. Among these statutes are the Motor Vehicle Security-Responsibility Law (Chapter 173, P. L. 1952—N. J. S. A. 39:6—23 to 39:6—57, incl.); Chapter 176, P. L. 1952 (N. J. S. A. 39:6—58 to 39:6—60) which provides for the apportionment of the cost of the administration of the Motor Vehicle Security-Responsibility Law among certain insurance companies; the Unsatisfied Claim and Judgment Fund Law, referred to above; and the Motor Vehicle Liability Security Fund Act (Chapter 175, P. L. 1952—N. J. S. A. 39:6—92 to 39:6—104, incl.).

The Unsatisfied Claim and Judgment Fund Law provides for the establishment and maintenance of a fund, the principal sources of which are fees from persons registering an uninsured motor vehicle in this State, fees from every other person registering a motor vehicle in this State, and a percentage of the premiums written by insurers issuing motor-vehicle liability insurance.

The fund is held in trust by the State Treasurer, to be disbursed under the provisions of the Act, for the payment of certain unsatisfied claims and judgments arising out of the ownership, maintenance, or use of motor vehicles in this State.

The responsibility of the State Treasurer in connection with the custody of this fund, and the investment thereof, are set forth in N. J. S. A. 39:6—88 which reads as follows:

"All sums paid to the director as Unsatisfied Claim and Judgment Fund Fees and as additional charges against owners of uninsured motor vehicles shall be remitted to the treasurer within thirty days after the receipt of the same. All sums received by the Treasurer pursuant to any of the provisions of this act shall become a part of the fund, and shall be held by the Treasurer in trust for the carrying out of the purpose of this act and for the payment of the cost of administering this act. Said fund may be invested and reinvested in the same manner as other State funds and shall be disbursed according to the order of the treasurer, as custodian of the fund."

It will be observed from the statute above, that the State Treasurer is required to hold, as custodian, the moneys constituting the Unsatisfied Claim and Judgment Fund, for a particular use.

## OPINIONS

With reference to moneys so held, Chapter 148, P. L. 1944 (N. J. S. A. 52:18—25.1) provides:

"In any case in which the State Treasurer holds moneys of the State under a requirement that said moneys be held for a particular time or be held for a particular use, he may invest such moneys in bonds or notes of the United States until such particular time has arrived or until such time as said moneys are required to be applied to the particular use."

The 1944 restriction placed upon the State Treasurer by Chapter 148, P. L. 1944 supra, as to the type of investments which he may make with moneys held for a "particular time", or for a "particular use", was removed by the provisions of N. J. S. A. 52:18A—86 (Chap. 270, P. L. 1950, as amended by Chap. 272, P. L. 1952). This statute transferred the functions, powers and duties relating to the investment of such moneys from the State Treasurer to the Director of the Division of Investment, Department of the Treasury; and another section of the same statute (N. J. S. A. 52:18A—89, as amended) authorized the Director of the Division of Investment to invest such moneys in obligations of the United States, and, subject to the authorization or approval of the State Investment Council, in savings-bank legals, in certain industrial obligations, and in certain Canadian governmental and provincial obligations.

Inasmuch as moneys constituting the Unsatisfied Claim and Judgment Fund are held by the State Treasurer for the particular uses set forth in the statute establishing that Fund, it follows that investment functions and duties relating to such fund are transferred to the Director of the Division of Investment by the specific reference to Chapter 148, P. L. 1944, contained in Chapter 270, P. L. 1950, as amended and supplemented, and that the Director of the Division of Investment and the Investment Council are to exercise, in connection with this fund, the responsibilities and duties vested in them by Chapter 270, P. L. 1950, as amended and supplemented.

In other words, as we view the matter, that portion of N. J. S. A. 39:6-88 requiring that the Unsatisfied Claim and Judgment Fund "be invested and reinvested in the same manner as other state funds" means that such Fund is to be invested and reinvested in the same manner as any other funds held by the State Treasurer, for a "particular time" or for a "particular use."

Your second question inquires as to whom is to accept, reject or modify the investment recommendations of the Director of the Division of Investment, assuming the investment jurisdiction of the Director of the Division of Investment over the Unsatisfied Claim and Judgment Fund.

Chapter 270, P. L. 1950, as amended and supplemented, vests in the State Treasurer the power to accept or reject any investment, reinvestment, purchase, sale, or exchange proposed to be made by the Director of the Division of Investment in connection with moneys being held by the State Treasurer under Chapter 148, P. L. 1944, namely, for a "particular time" or for a "particular use."

Yours very truly,

GROVER C. RLCHMAN, JR.  
*Attorney General.*

By: DANIEL DEBRIER,  
*Deputy Attorney General.*