

tion, being a "financial institution" within statutory definition, was required to report for taxation. See, also *Ohio Citizens Trust Company v. Evatt*, 63 N.E. 2d 912, 914, 146 Ohio St. 30.

It is my opinion that a Federal savings and loan association is a "financial institution" within the meaning of Act 77 and may make Michigan Higher Education Assistance Authority guaranteed loans.

The fact that Sec. 10 of Act 77 states that the Authority shall be subject to the supervision and examination of the State Banking Commissioner who would not have supervision of Federal savings and loan associations, would not have any effect on the conclusion reached in this opinion. It is the Authority that the Commissioner supervises and examines and not the lending institution.

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**CONSTITUTIONAL LAW:
SCHOOL BONDS:
MUNICIPAL FINANCE COMMISSION:**

Article 9, § 16, Michigan Constitution of 1963, requires school districts to borrow and State to lend sufficient sum to cover debt service payments on qualified bonds of school districts. Although this is not a pledge of full faith and credit of the State, the Municipal Finance Commission may and must enforce the duty of the district to borrow and the State to lend such sum.

No. 4422

March 12, 1965.

Hon. Sanford A. Brown
State Treasurer
Lansing, Michigan

You have asked in your letter of February 5 whether Article IX, § 16 of the Michigan Constitution of 1963 pledges the full faith and credit of the State to the payment of principal and interest of qualified school bonds.

Article IX, § 16 of the Michigan Constitution of 1963 provides in pertinent part as follows:

"The state * * * may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

"If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for payment of principal and

interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

"The term 'qualified bonds' means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section."

Thus, the school district is *required* to borrow and the State to lend an amount sufficient to enable the school district to make payments of principal and interest due on qualified bonds, and the state is *empowered* to borrow and to issue its notes or bonds for the purpose of making such loans, and to pledge its full faith and credit for such state bonds or notes.

The constitutional provision quoted does not pledge the full faith and credit of the state to all qualified bonds. The state is not primarily liable on qualified bonds of a school district. Rather, the state is required to lend whatever the school district needs, from time to time, to meet debt service requirements on such bonds.

You ask what remedies are available to enforce the obligation of the state.

The quoted language makes it mandatory upon the school district to borrow and upon the state to lend "an amount necessary to enable the school district to make the payment." Under Chapter II, Section 2(f) of the Municipal Finance Act [C.L. 1948 § 132.2; M.S.A. 1958 Rev. Vol. § 5.3188(4)f], the Municipal Finance Commission has power to enforce compliance with any law by, *inter alia*, the "institution of appropriate proceedings in the courts of the state, including those for writs of mandamus and injunction."

The Commission could and indeed must enforce the duty of the district to borrow and the state to lend. The bondholders also would have an action to enforce the duty of the district to borrow and of the state to lend.

Thus the bondholders are assured of the availability of state funds where needed to meet debt service requirements on qualified bonds. This is not a pledge of full faith and credit, but gives the bondholders as much or more protection as would such a pledge.

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