

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

March 8, 1968  
Treasury

Michael A. Napolitano, Treasurer

Legality of Participation in Repurchase Agreements Under the Authority of 5 M.R.S.A. § 135.

*FACTS:*

The opinion of this Department has been requested as to whether or not excess moneys in the State Treasury may be invested pursuant to a so-called repurchase agreement. Apparently such an investment is often placed through a middle man, such as a bank, and the loan is usually made to a dealer in investments who usually needs money to purchase securities and who will pledge United States securities as collateral.

5 M.R.S.A. § 135 states in part as follows:

“When there are excess moneys in the State Treasury which are not needed to meet current obligations . . . (the treasurer) . . . may, with the concurrence of the State Comptroller or the Commissioner of Finance and Administration and with the consent of the Governor and Council, invest such amounts in bonds, notes, certificates of indebtedness or other obligations of the United States of America which mature not more than 24 months from the date of investment. . . .”  
(Emphasis and parenthesis supplied.)

*QUESTION:*

May excess moneys in the State Treasury be loaned to dealers in investments, or other parties, in accordance with the terms of a “repurchase agreement” under 5 M.R.S.A. § 135?

*ANSWER:*

No.

*REASON:*

Title 5 M.R.S.A. § 135 is quite specific in that excess moneys in the State Treasury may only be invested in United States of America obligations. Under a so-called “repurchase agreement”, the investment, or loan, would be made to a party other than the United States of America and United States securities would be used as collateral to secure the loan. Under this latter situation, the moneys involved are not invested in an obligation of the United States of America. Consequently, an investment under a “repurchase agreement” would not be authorized by the aforementioned statute.

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