Investing funds of inmates

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Subject:
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DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES--MAY INVEST FUNDS OF INMATES OF CORRECTIONAL INSTITUTIONS AS TRUSTEE

To: O. J. Keller, Secretary, Department of Health and Rehabilitative Services, Tallahassee

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QUESTION:

May funds belonging to inmates of state penal and correctional institutions be invested in savings accounts of savings associations or banks?

SUMMARY:

Pursuant to ss. 402.17(2)(d) and 665.321(1), F. S., the Department of Health and Rehabilitative Services, as trustee of moneys received for the personal use or benefit of patients or inmates under that department's supervision and control, may invest such moneys in savings accounts of savings associations which are under state or federal supervision.

Section 402.17, F. S., provides in pertinent part that

"The department of health and rehabilitative services shall protect the financial interest of the state with respect to claims which the state may have for the care and maintenance of patients or inmates of state institutions under its supervision and control and shall administer money and other property received for the personal benefit of such patients or inmates. . . ."

In carrying out this obligation, the Department of Health and Rehabilitative Services is authorized to, *inter alia*, "[a]ccept and administer as a trust any money or other property received for personal use or benefit of any patient or inmate. . . ," and

"As such trustee to establish savings accounts, demand deposits, or other time deposits, or invest in the manner authorized by law for fiduciaries such moneys not required to be used for current needs of the patient or inmate. . . ." [Section 402.17(2)(a) and (d), F. S.]

In this regard, s. 665.321(1), F. S., provides in part that

"Administrators, executors, custodians, conservators, guardians, *trustees and other fiduciaries of every kind and nature* . . . and *public officials* hereby are specifically authorized and empowered

to invest funds held by them without any order of any court, in savings accounts of savings associations which are under state supervision and in accounts of federal associations organized under the laws of the United States and under federal supervision, and such investments shall be deemed and held to be legal investments for such funds." (Emphasis supplied.)

Pursuant to the foregoing statutory provisions, therefore, it would appear that the Department of Health and Rehabilitative Services, as trustee of moneys received for the personal use or benefit of inmates of state penal and correctional institutions, is authorized to invest such moneys in savings accounts of savings associations which are under state or federal supervision. *Cf*. AGO 074-169, relying on s. 665.321(1), id., in ruling that a special fire control district's funds could be invested in savings accounts of savings associations.

I am supported in this conclusion by the ruling of this office in AGO 060-20 in which it was stated that funds belonging to inmates of the Florida Industrial Schools could be invested in share accounts of federal savings and loan associations when such investments were approved by the Board of Commissioners of State Institutions. *See* s. 965.08, F. S. 1967, which was transferred to s. 402.17, F. S., pursuant to the Governmental Reorganization Act of 1969, Ch. 69-106, Laws of Florida. That act had, *inter alia*, created a Division of Adult Corrections in the Department of Health and Rehabilitative Services and transferred all powers, duties, and functions of the Board of Commissioners of State Institutions relating to and including the Division of Corrections created under s. 965.011(1), F. S. 1967, to the Division of Adult Corrections.