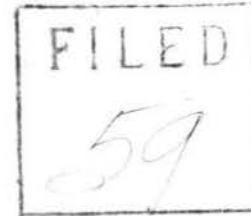


BUILDING AND LOAN -- Home Owners' Loan Corporation bonds may not be accepted by B & L. Associations.

August 7, 1933. 5-9



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Hon. Ira A. McBride
Supervisor
Bureau of Building & Loan Supervision
Jefferson City, Missouri

Dear Mr. McBride:

This is to acknowledge your letters of July 12th, 1933, which read as follows:

(1)

"Numerous inquiries are coming to this Department from various building and loan associations' officials and building and loan leagues asking as to whether or not building and loan associations will be permitted to accept the bonds of the Home Owners' Loan Corporation, which is now being set up by the national government throughout the nation.

In view of the fact that this is largely a legal matter, I am hereby referring this question to your office for your opinion.

That you may better understand this question which is being raised by the building and loan associations of the state, I am enclosing letter from Mr. Paul J. Arnold, President of the Kansas City Building and Loan League, which states the question, to my way of thinking, very clearly."

(2)

"Yesterday, I submitted to Hon. Roy McKittrick, Attorney General, request for an opinion as to

whether or not Missouri Building and Loan Associations can accept the bonds of the Home Owners' Loan Corporation in exchange for the mortgages they hold.

This question was first raised by the Kansas City Building and Loan League, but this morning I have a letter from Mr. J. L. McQuie, President of the Missouri State League at 1445 Syndicate Trust Building, St. Louis, Missouri, asking that I get the General's opinion on the same question. For your information, I am inclosing a copy of Mr. McQuie's letter."

The Home Owners' Loan Act of 1933, approved June 13, 1933, is an act to provide emergency relief with respect to home mortgage indebtedness, to refinance home mortgages, to extend relief to the owners of homes occupied by them and who are unable to amortize their debts elsewhere, etc. The act is quite lengthy and will not be set out only in part.

Section 4, sub-section "(a)" of the act authorizes the board to create a corporation to be known as the Home Owners' Loan Corporation, which is an instrumentality of the United States. Sub-section "(b)" fixes the amount of capital stock such to be owned by the Secretary of the Treasury and directs the Reconstruction Finance Corporation to allocate and make available to the Secretary of the Treasury the sum of \$200,000,000 or so much thereof as may be necessary.

Sub-section "(c)" provides in part the following:

"The Corporation is authorized to issue bonds in an aggregate amount not to exceed \$2,000,000,000, which may be sold by the corporation to obtain funds for carrying out the purposes of this section, or exchanged as hereinafter provided. Etc."

Sub-section "(c)" provides that same shall bear interest at a rate not to exceed 4 per centum per annum and that they are tax exempt.

Sub-section "(d)" provides in part as follows:

"The Corporation is authorized, for a period of three years after the date of enactment

of this act, (1) to acquire in exchange for bonds issued by it, home mortgages and other obligations and liens secured by real estate (including the interest of a vendor under a purchase-money mortgage or contract) recorded or filed in the proper office or executed prior to the date of the enactment of this act. etc."

The act defines certain terms used in same and the term "home mortgage" is defined as such,

"The term 'home mortgage' means a first mortgage on real estate in fee simple or on a leasehold under a renewable lease for not less than ninety-nine years, upon which there is located a dwelling for not more than four families, used by the owner as a home or held by him as his homestead, and having a value not exceeding \$20,000;"

There are other sub-sections and provisions of this act which we do not deem necessary to call attention to in writing this opinion. Our comments and quotations on and from the above act were solely for the reason to give some idea of what it intends to accomplish or its purpose.

The statutes of Missouri do not provide for the exchanging of bonds of the "Home Owners' Loan Corporation for mortgages of borrowing shareholders held by building and loan companies. Section 5594, Laws of Missouri, 1931, page 149, provides how surplus funds may be loaned and we quote parts of said statute as follows:

"The moneys accumulated from payments on account of stock, interest, premium and fines, as aforesaid, or from any other sources whatsoever, etc. * * * * *
Be offered to such shareholders or shareholder who shall bid the highest premium for the preference or priority of right to have a loan or advance of a sum equal to the ultimate value of one or more of his or their respective shares; etc. * * * * *
In case there shall be a balance of money remaining undisposed of at any stated meeting, the directors may, at their discretion, loan the funds so remaining on hand to others

than stockholders on the security of prime unencumbered real estate or invest in obligations of the United States or of the State of Missouri etc. "

Section 5593, Laws of Missouri, 1933, page 182, provides in part as follows:

"* * * , and invest in shares of such land bank of the State of Missouri, not to exceed ten per centum of the resources of such association at the time of such investment,* * *, it may invest in lawfully issued obligation of such land bank of the State of Missouri; also, upon the written permission of the supervisor of building and loan associations first had and obtained, any building and loan association may loan any of its funds on hand not needed for loans to its members, or the payment of matured shares or withdrawals, to other building and loan associations of Missouri. Etc."

Section 5597, Laws of Missouri, 1933, page 151, provides in part as follows:

"For every loan or advance made as aforesaid, a non-negotiable note or bond secured by first mortgage or deed of trust on real estate shall be given, accompanied by a transfer and pledge of the shares of stock of the member or members so obtaining a loan or advance. Etc."

Thus, the statutes limit building and loan companies to investing and loaning its money to the security hereinbefore enumerated. Building and loan companies are creatures of statute and may do only that which the statutes authorize.

If the building and loan companies substitute or exchange their first mortgages or deeds of trust for bonds of Home Owners' Loan Corporation, it would be an indirect method of investing its money in such bonds, which the statute does not permit. It is our opinion that legislation will be necessary before bonds of

Home Owners' Loan Corporation may be accepted by building and loan companies in lieu of their first mortgages or deeds of trust and until such time the companies may not accept the bonds in exchange.

Yours very truly,

James L. HornBostel
Assistant Attorney-General.

APPROVED: ROY McKITTRICK
Attorney-General.

JLH: G