

MISSOURI CREDIT UNION ACT: Minors may own shares but can rescind contract and demand return of investment; in instant case minor borrowing value of actual investment, credit union should insist on mother executing promissory note; if not specifically stated in by-laws, it is immaterial what purpose money borrowed by minor is used for; minor has same right in respect to borrowing in excess of holdings as adult member; minor may vote in election of officers.

October 17, 1936.

10-19



Honorable Dwight H. Brown,
Secretary of State,
Jefferson City, Missouri.

Dear Sir:

This department is in receipt of your letter of October 3, which is as follows:

"Section 13 of the Missouri Credit Union Law reads as follows: 'Minor May Own Shares--Shares may be issued in the name of a minor and in trust in such way and manner as the by-laws may provide.'

"Please see copy of letter from Father Bernard A. Timpe of St. Boniface Credit Union attached. The credit union's by-laws merely repeat the above language of the statute and do not amplify it in any way.

"Father Timpe uses an illustration where a minor owns shares in a credit union, valued at, say, \$50.00 and fully paid. The minor has no legal guardian but his mother acts as 'natural guardian.'

"May the minor borrow up to the value of his actual investment, \$50.00, using his stock as collateral? Must his mother execute the promissory note to the credit union, or must there be a legal guardian appointed? Will it affect the situation if the money is to be used for the education of the minor? Or if the money is to be used for luxuries?

"May the minor borrow in excess of his \$50 holdings, the same as a member of the credit union who is of lawful age? If not,

there seems to be little inducement for a minor to become a member of the credit union. May the minor vote in election of officers of the credit union?

"In the above illustration, the 'natural guardian', the boy's mother, is not a member of the credit union. The boy is a member. There are many minor members of Missouri credit unions and your opinion will be sincerely appreciated."

It must be conceded that a minor has authority under the Missouri Credit Union Law the same as an adult member; the Act undertakes to give him such rights. In approaching the question of loans to minors, it is well to bear in mind that the law throws every cloak of protection around a minor, but offers none to the person or persons dealing with him. A minor is treated in law as an infant; therefore, it is not a question under the Act of the minor's rights, but the rights of the credit union in making loans to a minor. Section 2971, R.S. Mo. 1929.

In the case of Goerke v. Hampke, 274 S.W. 510, it was held that an infant's contracts are voidable and that Section 2971 is to shield an infant or minor against acts of folly or rashness as well as against the designs of unscrupulous persons. Therefore, irrespective of the fact that Section 13 of the Credit Union Act gives minor the right to own shares, a minor could rescind his contract and demand the return of the money invested.

Regarding your inquiry as to whether or not the mother must execute the promissory note to the credit union, we are of the opinion that this is optional with the credit union, but as stated heretofore, it is hazardous for the credit union to deal with the minor. As a precaution, the credit union could insist on the mother executing the promissory note along with the minor. In that event, the credit union would have to look to the mother for payment of the note if the minor refused to pay the same.

As to the purpose of the money borrowed, it is the opinion of this department that the by-laws would govern this situation, as the Act is silent as to the purposes for which loans may be made to share-holders. Therefore, in the absence of same in the by-laws, it is immaterial as to the purpose or use that may be made of the money borrowed by the minor. Sec. 16.

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Regarding the right of a minor to borrow in excess of \$50.00 holdings, it is our opinion that the minor has the same power and rights under Sections 10 and 16 of the Act with reference to obtaining loans as any adult member. However, we repeat that the credit union deals with the minor at its own peril. The same precaution may be used by the credit union as heretofore mentioned, i.e., obtain security from the mother or some other person.

Section 9 of the Missouri Credit Union Act refers to the election of officers, and in reply to your inquiry as to whether or not a minor may vote in the election of officers, we must say that there is no disqualification set forth, and in the absence of by-laws relating to the manner of conducting elections and the qualifications of the voters, it is our opinion that a minor may vote in such elections.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General.

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