

COOPERATIVE ASSOCIATION:— Re: Federal Loans to Cooperatives;
Exemptions from certain taxes; Sections
12676 et seq; Sections 12706 et seq;
Sections 12748 et seq, R. S. 1929.

June 25, 1936.



Mr. George Gayou
Executive Vice-President
Missouri Retailers Association
511 Locust Street
St. Louis, Missouri

Dear Mr. Gayou:

This is to acknowledge receipt of your letter of recent date relative to cooperatives, consumer cooperatives, particularly those which have a background of government assistance and are exempt from taxes. Also, you inquire as to whether there are any statutes providing for loans to any of these groups at a low rate of interest in Missouri.

We find that laws have been enacted pertaining to several different kinds of cooperative associations. Article 24, Chapter 87, R. S. Mo. 1929, Sections 12676 to 12705, inclusive, pertain to what has been termed "non-profit cooperative associations," which associations have powers, among others, to engage in any activity in connection with the marketing, selling, preserving, harvesting, rying, processing, manufacturing, canning, packing, grading, storing, handling or utilization of any agricultural products produced or delivered to it by its members; or the manufacturing or the marketing of the by-products thereof; or any activity in connection with the purchase, hiring or use by its members of supplies, machinery or equipment or in the financing of such activities; or in any one or more of the activities specified in this section, and certain other powers given to the ordinary corporation.

Under Section 12704 of the above article we find that "each association organized hereunder shall pay an annual fee of ten (\$10) dollars only, in lieu of all franchise or license or corporation or other taxes, or taxes or charges upon reserves held by it for members."

In Article 25, Chapter 87, R. S. Mo. 1929, Sections 12706 to 12724, inclusive, we have what has been termed "commodity associations." Under the provisions of Section 12719 of this Article, we find that "commodity associations," as herein authorized may be incorporated as follows:

"Corn growers associations, wheat growers associations, potato growers associations, apple growers associations, strawberry growers associations, cotton growers associations and melon growers associations, but no such association shall be formed for the purpose of growing or producing and marketing more than one of such commodities, and associations of growers; or producers of any other commodity or product of the soil though not herein named may be incorporated under the provisions of this article. Every such association shall have, as a part of its corporate name, the name of the commodity in the growing, production and marketing of which its members are, or proposed to be engaged."

We find that under Section 12723, of the same article and chapter, that "commodity associations" organized under the provisions of this article shall be exempt from the limitations, restrictions and burdens imposed upon corporations by any law of the state pertaining to the regulations thereof, except as are in this article specifically set forth.

And under Article 29, Chapter 87, R. S. Mo. 1929, Sections 12748 to 12766, inclusive, for the association of not less than twelve persons as a cooperative association, society or exchange having all the incidents, powers and privileges of corporations, for the purpose of conducting any agricultural or mercantile business on the cooperative plan, including the buying, selling, manufacturing, storage, transportation or other handling or dealing in or with by associations of agriculturists, of agricultural, dairy or similar products, and including the manufacturing transformation of such articles into products derived therefrom, and for the purpose of the purchasing of or selling to all shareholders and others, groceries, provisions and all other articles of merchandise.

we find that there has been recently enacted by Congress and created what has been called the Farm Credit Administration, and found at Sections 1141b, 1141c, 1141d, 1141e and 1141f in U. S. C. A., 1935 Cumulative Annual Pocket Part, Title 12, Banks and Banking, page 265, and the administration is authorized and directed --

"(1) to promote education in the principles and practices of cooperative marketing of agricultural commodities and food products thereof.

"(2) to encourage the organization, improvement in methods, and development of effective cooperative associations.

"(3) to keep advised from any available sources and make reports as to crop prices, experiences, prospects, supply and demand, at home and abroad."

Under Section 1141d there is hereby authorized to be appropriated the sum of \$500,000,000 which shall be made available by the Congress as soon as practicable after approval of this subchapter and shall constitute a revolving fund to be administered by this administration as provided in this subchapter and subchapter V of this chapter.

And under Section 1141e, upon application by any cooperative association the administration is authorized to make loans to it from the revolving fund to assist in (1) the effective merchandising of agricultural commodities and food products thereof and the financing of its operations; (2) the construction or acquisition by purchase or lease, or refinancing the cost of such construction or acquisition of physical facilities. And further provides certain restrictions as to such loans.

Under Section 1141f (a) loans to any cooperative association shall bear such rates of interest as the governor of the Farm Credit Administration shall from time to time determine to be necessary for the needs of the lending agencies and shall by regulation prescribe (but in no case shall the rate of interest exceed six per centum per annum on the unpaid principal). Under this section it seems to be discretionary

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with the governor of the Farm Credit Administration as to what the rate of interest shall be to cooperatives. As to what rate of interest is charged we are not at this time informed.

We have only very briefly reviewed the provisions of our statutes pertaining to the organization of cooperatives in this state and the provisions of the Federal statutes. No doubt those associations organized under Articles 24 and 29 are the ones in which you are more particularly interested. It will be observed that those organized under Article 24 are exempt from all franchise, license, corporation or other taxes, or taxes upon reserves held by it for its members. We do not find that there are any provisions in our statutes for these associations to have a lower rate of interest than individuals or other corporations.

With reference to the Federal Farm Credit Association, which has the power and authority to loan money to cooperatives, we are informed that they have headquarters at 15th and Locust Streets, St. Louis, Missouri, and are engaged in administering this Act in this District. Under separate cover we are forwarding to you a copy of the General Corporation Laws of the State of Missouri, with the sections of the statute pertaining to cooperatives marked for your use, which you will find from pages 140 to 160, inclusive.

If there is anything further or we have not answered the questions asked in your letter, we will gladly go into the matter more in detail for you.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

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

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