

BUILDING AND LOAN: Contingent fund required by
Section 5602 may be designated as
the Federal Insurance Reserve Account.

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July 21, 1937



Honorable J. W. McCammon
Supervisor, Bureau of
Building and Loan Supervision
Jefferson City, Missouri

Dear Mr. McCammon:

This Department is in receipt of your
request for an opinion which reads as follows:

"There has come to my attention a requirement set forth by the Federal Savings and Loan Insurance Corporation whereby an insured association must designate a reserve for the sole purpose of absorbing losses, such reserve to be set up as the Federal Insurance Reserve account.

"We are in receipt of the enclosed resolution adopted by the board of directors of the Greene County Building and Loan Association of Springfield, Missouri, which resolution designates the contingent fund of the association as the Federal Insurance Reserve account.

"The question arises as to whether or not such resolution destroys the idea of the contingent fund and wipes out this reserve and the purpose it is to serve under Section 5602, whereby a contingent fund is created.

"Therefore, we respectfully request your opinion on this matter."

Section 5602 Laws of Missouri 1935, page 206, provides as follows:

"Every building and loan association, whether heretofore or hereafter organized, shall accumulate from its earnings a contingent fund for the payment of contingent losses, and at least five per cent of the net earnings made in its previous six months shall be set aside semi-annually in February and August of each year to such fund until it reaches at least five per cent of the total assets. Whenever the amount in the contingent fund falls below five per cent of the assets, it shall be replenished by semi-annual appropriations of at least five per cent of its net earnings until it again reaches such amount. All losses or reserves for losses shall be charged to the contingent fund or the undivided profits fund or other general reserves until the same are exhausted, and any losses thereafter shall be apportioned so that each member shall bear his proportionate part thereof. Any sums heretofore transferred to the contingent fund of any such association shall constitute its contingent fund, when this act takes effect."

Section 11. (a) of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation provides in part as follows:

"Each insured institution shall set up a Federal insurance reserve account for the sole purpose of absorbing losses and shall credit thereto during each fiscal year at least three-tenths of 1 percent of the aggre-

gate of its insured accounts standing on its books at the beginning of such fiscal year".

* * * * *

"Whenever the net credits to such Federal insurance reserve account amount to 5 percent of all insured accounts, the insured institutions may cease to make such credits to such account: Provided, however, that if at any time thereafter the net credits to such account fail to equal 5 percent of all insured accounts, such annual credits shall be resumed until the net credits again equal 5 percent of all insured accounts".

Section 11. (b) of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation provides:

"With the written approval of the Board any reserve account, which has been irrevocably established by an insured institution for the sole purpose of absorbing losses, may be designated as such Federal insurance reserve account: Provided that such account shall be subject to the conditions of the preceding paragraph".

It will be noted that the reserve or contingent funds provided for by the statute and rules both have the same purpose- that is, the building up of a reserve for the protection of the shareholders of the Association. The fund in both cases is identical in its

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purpose and make-up, and the designation of it as a Federal Insurance Reserve Account does not in any way vitiate or abrogate the requirement of the state law that a reserve for the protection of the shareholders must be set up. Since the Association in question is incorporated under the laws of Missouri it must therefore follow the statutes of Missouri in regard to how its reserve fund is to be built up, namely Section 5602, supra. However, we can see nothing harmful or illegal about designating such reserve fund as the Federal Insurance Account.

CONCLUSION.

It is therefore the conclusion of this Department that the contingent fund created under Section 5602, Laws of Missouri 1935, may be designated as the Federal Insurance Reserve Account, and that the same does not lose its identity or status as a contingent fund as provided for by Section 5602.

Respectfully submitted,

AUBREY R. HAMMETT, JR.
Assistant Attorney General

APPROVED:

J.E. TAYLOR
(Acting) Attorney-General

AO'K/R