

BOND INVESTMENT COMPANIES: Commissioner of Finance has  
the power to examine Bond  
Investment Companies.

March Twenty-Ninth  
1939

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Hon. J. W. McCammon, Supervisor  
Bureau of Loan Supervision  
Jefferson City, Missouri

Dear Sir:

This is to acknowledge your letter dated March 24, 1939, requesting our opinion as to whether Section 5064, R. S. Mo., 1929, gives you the right and power to examine into the affairs of Bond Investment Companies. Your letter is lengthy, consequently, I will not quote it.

On July 28, 1936, this Department rendered an official opinion to Hon. Dwight H. Brown, Secretary of State, relating to Bond Investment Companies, and Page 5 of said Opinion reads:

"Section 5064 of said Article provides that the Supervisor of Building and Loan Associations shall have the power to examine into the affairs of such a company. However, by virtue of Section 5285, R. S. Mo. 1929, the power of examination now vests with the Commissioner of Finance."

We are of the opinion that our ruling made on July 28, 1936, correctly rules the law as to the Commissioner of Finance having the power to examine Bond Investment Companies. However, we will go more fully into detail in explaining the above quoted portion from our opinion of July 28, 1936.

Section 5064 is part of Article 13, Chapter 32, R. S. Mo., 1929, and in part reads as follows:

"The Supervisor of Building and Loan Associations is hereby made ex-officio Supervisor of Bond Investment Companies. He shall have like

power to examine into the affairs of these companies as is now or may be provided by law for the examination of Building and Loan Associations. \* \* \* "

Section 5064 was Section 10337 of the Revised Statutes of 1919.

In 1919, there was a Department of Building and Loan Associations and a Supervisor who administered the affairs of said Department. In addition to examining Building and Loan Associations, the Supervisor also had the power to examine co-operative companies (Section 4986 R. S. Mo. 1929) and Bond Investment Companies (Section 5064 Supra). However, in 1921, the Legislature created a State Department of Finance and transferred all the duties of the Supervisor of Building and Loan Associations to the Commissioner of Finance. Laws of Missouri 1921, Page 393. The 1921 laws are now found in Article 1, Chapter 34, R. S. Mo. 1929, of which Sections 5282 and 5285 are part of said Article and Chapter.

Section 5285, R. S. Mo., 1929, reads in part as follows:

"The Department of Finance shall have charge of the execution of the laws \* \* \* relating to Building and Loan Associations and cooperative companies organized and existing under and by virtue of the laws of this State \* \* \* \* it being the purpose and intention of this Article that the Department of Finance herein created shall have and exercise the jurisdiction heretofore possessed and exercised by the State Banking Department \* \* \* \* the Bureau of Building and Loan Supervision, the Supervisor of Building and Loan Associations, and the Soldier Settlement Board \* \* \* \* the Bureau of Building and Loan Supervision, the office of Supervisor of Building and Loan Associations, \* \* \* \* are hereby abolished and all the powers and duties thereof provided by the laws of this State, are hereby conferred upon and vested in the State Depart-

ment of Finance, and all the provisions of the laws of this State conferring duties and powers upon the foregoing Department, Bureau, Officers, and Board, or requiring reports thereto, insofar as compatible with the provisions of this article, are hereby adopted and incorporated herein by reference and made a part hereof."

In addition to Section 5285, the 1921 Laws, in creating the State Department of Finance, added a section which is not found in the 1929 Revision, which Section was numbered 10 and found at Page 397, and reads: "All Acts and parts of Acts inconsistent with this Act are hereby repealed." Thus, it is seen that in 1921, the Legislature abolished the office of Supervisor of Building and Loan Associations and conferred all his powers and duties upon the newly created State Department of Finance. In 1925, the Legislature repealed all the laws relating to Building and Loan Associations, which were then found in Article 9, Chapter 90, R. S. Mo. 1919, and re-enacted a new law. Laws of Missouri 1925, Page 146. In the 1925 Law at Page 162, Section 38, is found which reads:

"It shall be the duty of the Commissioner of Finance of the State of Missouri to administer and enforce the provisions of this Act."

In 1927 (Laws of 1927, Page 123) the Legislature created a State Bureau of Building and Loan Supervision. This law is found in the Revised Statutes of 1929 as Article 1, Chapter 35. Section 38 of the 1925 Law was made to read that the Supervisor should administer and enforce the provisions of Article 2, Chapter 35, (Section 5622). From the Laws of 1921 until the Laws of 1927, there was not in existence the office of Supervisor of Building and Loan Associations, and, consequently, all of the powers and duties exercised by him prior to the Laws of 1921 were placed in the Commissioner of Finance and remained as part of the Commissioner's duties until the Laws of 1927 took away some of them. Section 5579, R. S. Mo., 1929, in creating a State Bureau of Building and Loan Supervision,

only placed the Supervisor in charge of the execution of the laws relating to Mutual Savings Fund, Building and Loan Associations organized and existing under and by virtue of the laws of this State. Said Section further provided: "It being the purpose and intention of this Article that the State Bureau of Building and Loan Supervision and the Supervisor of Building and Loan Associations, herein created, shall have and exercise the jurisdiction heretofore possessed and exercised by the State Department of Finance and Commissioner of Finance over Building and Loan Associations, and all of the powers and duties heretofore conferred upon and vested in the State Department of Finance and Commissioner of Finance over Building and Loan Associations are hereby abolished and all of the powers and duties thereof vested by the laws of this State in the Department of Finance and/or in the Commissioner of Finance relating to the Supervision of Building and Loan Associations are hereby conferred upon and vested in the State Bureau of Building and Loan Supervision and the Supervisor of Building and Loan Associations insofar as compatible with the provisions of this Article, and the same are hereby adopted and incorporated herein by reference and made a part hereof."

Therefore, in 1927, the Legislature created a new Bureau of Building and Loan Supervision and took away from the Commissioner of Finance the supervision of Building and Loan Associations. We are unable to find any statute which replaced Bond Investment Companies under the jurisdiction of the Bureau of Building and Loan Supervision.

In 1931, Laws of Missouri, 1931, Page 141, the Legislature repealed and re-enacted Chapter 35, R. S. Mo., 1929, and only made it part of the Supervisor's duties to examine and execute the laws relating to Building and Loan Associations.

From the above and foregoing, we conclude that in 1921 the duties of the Supervisor under Section 5064 were placed with the Commissioner of Finance and have remained a part of the Commissioner's duties from that date until the present time. As the Bureau of Building and Loan Supervision was abolished in 1921, and re-created in 1927, probably, through inadvertance, the 1919 Statute which is

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now Section 5064 was carried forward in the Revision of 1929 without correction or change. State ex rel Cantley, State Commissioner of Finance, vs. Meyer Tailoring Company et al, 25 S. W. (2d) 98, was an action under Article 9, Chapter 32, R. S. 1929, brought in the name of the Commissioner of Finance, even though Section 4991 appearing in the 1929 Revision made it the duty of the Supervisor to administer the laws relating to cooperative companies. Said case was decided after the 1927 Law creating the Bureau, and Section 4991 is similar to Section 5064 in that the Revision of 1929 left the examination of cooperative companies and Bond Investment Companies under the Supervisor of Building and Loan Associations.

As hereinbefore stated, we adhere to our Opinion of July 28, 1936.

APPROVED:

Yours very truly,

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W. J. BURKE  
(Acting) Attorney General

ARTHUR O'KEEFE  
Assistant Attorney General

JLH  
AO:RW