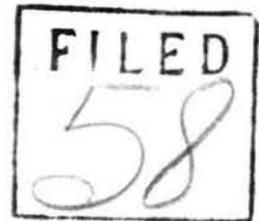


BUILDING AND LOAN:

Agreement between Federal Association and State Association covered by joint faithful performance bond that Federal Association shall have priority does not meet requirements of Section 5591, Laws of Missouri, 1931, p. 147.

May 25, 1939

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:

"We have received from the Baltimore Avenue Building and Loan Association, a state chartered institution under the jurisdiction of this Bureau, a blanket bond covering the officers and employees of that association. Attached to this bond is an agreement whereby the bond provides joint coverage on the same officers and employees of a companion institution, known as the Baltimore Avenue Federal Savings and Loan Association. The Federal association is not subject to the jurisdiction of this department.

"It appears to me that this agreement, above mentioned, gives preference to the Federal chartered association and, therefore, does not provide, under all circumstances, full coverage in behalf of the state chartered institution. This Bureau feels that \$10,000.00 is the minimum amount of bond coverage that should be in force to protect the shareholders of the state chartered association. My question then is whether or not, under the terms of the agreement and the bond, there is full compliance with Section 5591, Missouri Statutes."

May 25, 1939.

The agreement which accompanies your request provides that in the event of a loss covered by the bond, which loss affects the Federal association and the State association, all sums recovered on said bond shall be paid to the Federal association before any amount shall be paid to the State association. Laws of Missouri, 1931, Section 5591, p. 147, provides in part as follows:

"All officers and employes of any building, loan and savings association doing business in this state, whether created under this article or any previous laws of this state, who have the custody or handling of any of the funds or securities of such association, or who sign or endorse checks of said association, shall give such security for the faithful performance of their duties as the by-laws may require, and no such officer shall be deemed qualified to enter upon the duties of his office until such security is approved by the board of directors and the supervisor of building and loan associations. All such bonds shall be filed with the supervisor of building and loan associations, or some depository designated by the supervisor of building and loan associations: Provided, that the supervisor of building and loan associations may require of any officer at any time such additional security, or such increase of said bond, or new bond, as he may, upon sufficient cause shown, deem necessary for the protection of the corporation and its members.

As was said in State ex rel. Wagner vs. Farm and Home Savings & Loan Association, 90 S. W. (2d) 93:

"Building and loan associations are quasi public financial institutions, and for the protection of them the

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state of Missouri has by the act of 1931, provided special inquisitorial, supervisory, and regulating laws which are specific, adequate, complete and therefore exclusive."

The statute above, providing for a faithful performance bond to be given by certain officers and employees of an association, is designed to protect and secure the shareholders of such association. Such statutes are to be construed liberally in favor of those protected and must be strictly construed so as to fulfil the statutory requirements and thereby promote the object in the mind of the legislature. 59 C. J. 1106.

Section 5591, supra, provides that all officers and employees who have custody of funds must give a faithful performance bond. To countenance such an agreement as the one in question would vitiate the bond insofar as it relates to the officers of the state association and would render it an instrument of doubtful protection to the shareholders. A bond, with such an agreement attached thereto, would not meet the requirements of the statute as set forth above.

CONCLUSION

It is therefore the opinion of this Department that an agreement entered into between a State Building and Loan Association and a Federal Building and Loan Association, which have a joint bond to permit the Federal Association to have priority in the collection of any losses covered by said bond, does not meet the requirements of Section 5591, Laws of Missouri, 1931, p. 147.

Respectfully submitted,

ARTHUR O'KEEFE
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General

AO:VC