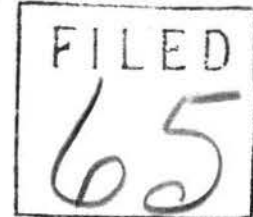


LOAN & INVESTMENT ) Additional powers conferred  
COMPANIES: ) on Loan and Investment  
Companies do not apply to  
individuals.

May 5, 1939

5-8



Mr. Maurice L. Mushlin  
Associate Prosecuting Attorney  
Municipal Courts Building  
St. Louis, Missouri

Dear Sir:

We are in receipt of your request for an opinion,  
under date of April 19th, 1939, which reads as follows:

"I would desire to have your office render  
an opinion as to whether or not individuals  
could engage in the loan business under the  
loan and investment act, without incorpora-  
tion under such loan and investment act.

"In other words, can individuals obtain  
the privileges granted to the Corporations  
under the loan and investment act, such as  
charging eight percent interest, two per cent  
for investigation, and lastly Twenty Dollars  
per automobile for extra hazard.

"It is my opinion that only Corporations can  
be chartered and operate under the loan and  
investment act.

"I desire to thank you for your early opinion  
on this matter."

Section 4979 R. S. Missouri, 1929, reads as  
follows:

"The term 'loan and investment company' as used in this article means any corporation formed under the provisions of this article."

It will be noticed that this section, which is included in Article 8, Chapter 32, of the Revised Statutes of Missouri, 1929, specifically states the term law investment company as used means "corporation".

Section 4980 R. S. Missouri, 1929, reads as follows:

"Corporations may be organized under and by virtue of this article in the same manner as manufacturing and business corporations, under and by virtue of article 7 of chapter 32, R. S. 1929, except as otherwise herein provided."

Section 4981 R. S. Missouri, 1929, reads as follows:

"The aggregate amount of the capital stock of any loan and investment company organized under the provisions of this article shall not be more nor less than is now provided for in the case of manufacturing and business corporations."

In reading the above three sections together, it must be construed that anything contained in Chapter 32, Article 8, refers only to corporations and not individuals. Section 4982 R. S. Missouri, 1929, which is contained in Chapter 32, Article 8, was amended by Section 4982 Laws of Missouri, 1933, page 199.

The third paragraph of Section 4982, Laws of Missouri, 1933, reads as follows: (P. 200).

"To charge for a loan made pursuant to this section one dollar for each fifty dollars or fraction thereof loaned for any examination or investigation of the character and circumstances of the borrower, co-maker or surety and the drawing and taking acknowledgment of necessary papers in making the loan; no charge shall be collected unless a loan shall have been made as a result of such examination or investigation."

The fourth paragraph of the same section reads as follows:

"To charge for a loan made pursuant to this Section, when secured by chattel mortgage or lien upon a motor vehicle, a sum not greater than Twenty Dollars (\$20.00) on account of extra hazards involved in such loans, provided, however, that in the event the Company retains all or any part of such charge for its own use, the note evidencing the indebtedness shall bear on its face a statement that the maker thereof has the option of delivering and conveying the motor vehicle securing such note, regardless of condition, in full satisfaction of the balance due thereon."

In view of the third and fourth paragraphs being in Section 4982, supra, and contained in Chapter 32, Article 8, which only applies to corporations, it cannot be said that an individual could take advantage of this additional power as conferred by the laws of 1929, and the laws of 1933.

The sections above quoted are not ambiguous and do not need interpretation by the courts of this state. According to 59 C. J. page 952, it is said:

"The intention of the legislature is to be obtained primarily from the language used in the statute. The court must impartially and without bias review the written words of the act, being aided in their interpretations by the canons of construction. Where the language of a statute is plain and unambiguous, there is no occasion for construction, even though other meanings could be found; and the court cannot indulge in speculation as to the probable or possible qualifications which might have been in the mind of the legislature, but the statute must be given effect according to its plain and obvious meaning." citing *Gendron v. Dwight Chapin & Co.*, (App.) 37 S. W. (2d) 486; *Betz v. Kansas City So. R. Co.*, 284 S. W. 455, 314 Mo. 390; *Grier v. Kansas City, C. C. & St. J. Ry. Co.*, 228 S. W. 454, 286 Mo. 523."

Also, in the case of *Betz v. Columbia Telephone Co.*, (App.) 24 S. W. (2d) 224, the Court said:

"To get at the true meaning of the language of the statute the court must look at the whole purpose of the act, the law as it was before the enactment, and the change in the law intended to be made."

It will be noticed in the fourth paragraph of Section 4982, *supra*, Laws of Missouri, 1933, page 201, that it specifically sets out "Company" which further bears out the opinion of this department

that this section which allows \$1.50 for the examination or investigation of the character of the borrower or others, and also which allows under the fourth paragraph a sum not greater than Twenty (\$20.00) Dollars, which should be construed as a commission on account of extra hazard involved in the loan upon automobiles, only applies to corporations incorporated under the loan investment company chapter, and does not apply to individuals.

Section 2840 R. S. Missouri, 1929, reads as follows:

"The parties may agree, in writing, for the payment of interest not exceeding eight per cent, per annum, on money due or to become due upon any contract."

Under this section an individual by agreement may charge a rate of interest not exceeding eight per cent per annum. But sections 4980, 4981, 4982, supra, covers additional charges that may be lawfully demanded by loan and investment companies.

CONCLUSION.

In view of the above authorities it is the opinion of this department that Chapter 32, Article 8, Laws of Missouri, 1929, and as amended in the Laws of Missouri, 1933, page 199, only applies to corporations chartered and operating under the Loan and Investment Act and does not apply to individuals.

APPROVED:

Respectfully submitted,

W. J. BURKE  
Assistant Attorney General

J. E. TAYLOR  
(Acting) Attorney General.