

LOAN COMPANIES: When Finance Commissioner has authority to revoke or refuse to issue license to "Small-Loan" company.

October 1, 1940

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Honorable R. W. Holt
Commissioner of Finance
Jefferson City, Missouri

Dear Mr. Holt:

We are in receipt of your recent request for an opinion, wherein you state as follows:

"I am enclosing a copy of the Rules and Regulations governing Licensees under the Small Loan Law and wish to direct your particular attention to paragraph 12 on page 13 thereof, which reads as follows:

"No business of any kind shall be operated in the same place of business as that of a licensee, under any act, plan, or scheme, wherein any act is done or any loan is made in violation of any law."

"A number of companies licensed to operate under the Small Loan Law conduct their business in the same offices with companies operating under the Loan and Investment Act and, in view of the pending suit in which you charge that the Loan and Investment Act is unconstitutional, I shall appreciate an opinion as to whether or not this Department can legally revoke or refuse to issue a license if the business of the licensee is or is to be conducted in

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the same office with a company operating under the Loan and Investment Act."

There is a well-defined rule that statutes are presumed to be constitutional unless the contrary is clearly shown (Springfield v. Smith, 322 Mo. 1129, 19 S. W. (2d) 1), so that until the courts declare the present Loan and Investment Act unconstitutional we can presume its constitutionality. Hence, it is not necessary here for us to determine the constitutional question.

Your query then narrows down to whether the Finance Department can legally revoke or refuse to issue a license to a "Small Loan" company if the business of the licensee is or is to be conducted in the same office with the company operating under the Loan and Investment Act.

This Department under date of August 23, 1939, approved a set of rules and regulations for your office in the licensing of companies doing business under the "Small Loan Law" (Chap. 34, Art. 7, Revised Statutes of Missouri, 1929, as amended by Laws of Missouri, 1939, page 772). On page 13 of said rules and regulations we find the following:

"12. No business of any kind shall be operated in the same place of business as that of a licensee, under any act, plan, or scheme, wherein any act is done or any loan is made in violation of any law."

The above rule is clear and unambiguous and under its terms you must not permit a "Small Loan" company properly licensed to do business, to conduct its affairs in the same office with any other business where any act is done or loan made in violation of any law.

From the foregoing, we are of the opinion that if you have knowledge that a "Small Loan" company is conducting its affairs in the same office with a company doing

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business under the Loan and Investment Act or with any other business where loans are made in violation of the law or acts done in violation of the law, you have authority to legally revoke or refuse to issue a license to said "Small Loan" company.

Respectfully submitted,

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APPROVED:

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