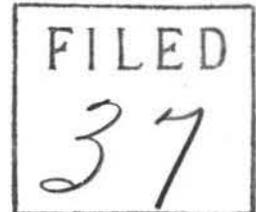


BANKS AND BANKING: Interpretation of Sections 7952 and 8032, R. S. Mo. 1939, as amended, relative to the amount banks and trust companies may loan to individuals, partnerships, corporations and bodies politic.

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January 22, 1943



Hon. D. R. Harrison  
Commissioner of Finance  
Jefferson City, Missouri

Dear Mr. Harrison:

This is to acknowledge receipt of your letter of January 16th, 1943, in which you request the opinion of this department. Your letter is as follows:

"This Department has been confronted with the question of whether or not loans secured by pledge of government bonds are exempt from the restrictive provisions of Sections 7952 and 8032, pages 679 and 684 of the Laws of Missouri, 1941.

"We have always interpreted the Sections to mean that they do not make an exception in the case of loans secured by government bonds.

"An opinion from you regarding this matter will be very much appreciated."

Your question is whether there is any exception to the amount that may be loaned directly or indirectly by a bank or trust company to an individual, partnership, corporation or body politic, mentioned in Subdivision 1, Section 7952, R. S. Mo. 1939, as amended by Laws of Missouri 1941, at page 679, pertaining to banks, and Subdivision 1, Section 8032, R. S. Mo. 1939, as amended by Laws of Missouri, 1941, page 684, pertaining to trust

companies, if the loan is secured by the pledging of government bonds.

Sections 7952 and 8032, supra, as amended are similar except that Section 7952 relates to banks and Section 8032 relates to trust companies. The amendments of 1941 of both sections do not in any way affect the question propounded in your request. That part of Section 7952 pertinent to your question provides as follows:

"Restrictions on loans, purchases of securities and total liabilities to banks of any one person. A bank subject to the provisions of this article:

"1. Shall not directly or indirectly lend to any individual, partnership, corporation, or body politic, either by means of letters of credit, by acceptance of drafts or by discount or purchase of notes, bills of exchange or other obligations of such individual, partnership, corporation or body politic an amount or amounts in the aggregate which will exceed fifteen (15) per centum of the capital stock actually paid in and surplus fund of such bank if located in a city having a population of one hundred thousand or over; twenty (20) per centum of the capital stock actually paid in and surplus fund of such bank if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five (25) per centum of the capital stock actually paid in and surplus fund of such bank if located elsewhere in the state, with the following exceptions: \* \* \* \* \*

It will be noted that a bank or trust company, as the case may be, is restricted in the amount it may lend directly or indirectly to any individual, partnership, corporation or body politic, to fifteen per centum in the aggregate of

the capital stock actually paid in and surplus fund of such bank if located in a city having a population of one hundred thousand or over; twenty per centum if located in a city having a population of less than one hundred thousand and over seven thousand, and twenty-five per centum if located elsewhere in the state.

It seems unnecessary in this opinion to set forth the subdivisions describing the various bonds, securities and other evidences of debt to which the restrictions in subdivision 1, as set forth above, shall not apply, for the reason that it occupies four complete pages of Laws of Missouri 1941 (pages 679 et seq.). It will be observed by a reading of the exceptions that they apply when the loan or loans are made directly by the bank or trust company, as the case may be, or the bank or trust company owns outright those securities. Briefly, the bonds, securities and other evidences of debt to which the restrictions in subdivision 1 shall not apply are bonds, securities or other evidences of debt of the government of the United States, or its territorial possessions, or of the State of Missouri, or of any city, county, town, village or political subdivision of this state; bonds, securities or other evidences of debt of any corporation organized under the laws of the United States which are guaranteed; bonds of any state of the United States other than the State of Missouri or the county, city or school district of such foreign state, having a population of more than fifty thousand and which shall not have defaulted for more than 120 days in the payment of its general obligations; or bonds issued by certain designated governmental agencies.

However, the restrictions apply in subdivision 1 when the loan is made to an individual, partnership, corporation, or body politic, even though the loan is secured by government bonds or other evidences of debt of eminent quality. We find that there is no exception to the amount that may be loaned to the borrower. In other words, the gist of the section is that the restriction applies to the amount of the loan and not the quality of the securities pledged to secure the loan.

#### CONCLUSION

It is, therefore, our opinion that loans secured by government bonds are not exempt from the restrictive pro-

Hon. D. R. Harrison

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visions of Sections 7952, R. S. Mo. 1939, as amended, relating to banks, or Section 8032, R. S. Mo. 1939, as amended, relating to trust companies.

Respectfully submitted,

COVELL R. HEWITT  
Assistant Attorney-General

APPROVED:

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ROY MCKITTRICK  
Attorney-General

CRH:CP