REAL ESTATE COMMISSION: No prohibition against broker paying directly or indirectly to borrower cost of making loan, under Sec. 15, p. 424 et seq., Laws of Mo., 1941.

August 5, 1943

8

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41

Mr. J. W. Hobbs, Executive Secretary
Missouri Real Estate Commission
Jefferson City, Missouri

Dear Mr. Hobbs:

This is to acknowledge receipt of a letter of recent date directed to you by Mr. E. D. Ruth, Jr., Chairman of the Missouri Real Estate Commission, in which he requested the opinion of this Department on a matter therein propounded. The question as set forth in his letter is as follows:

> "'Can licensed Real Estate Brokers, who have always been in the habit of requiring the borrower to pay for the examination of title, recording fees, acknowledgements, surveys, etc., and which practice is the general custom of the locality in which the loan is being made, as an inducement to obtain the loan, pay a cash premium to the borrower or in lieu thereof, can they assume a substantial part or all of the cost of making a loan, such as title examination, recording, surveys and so forth.'
>
> "It is the contention of some of our licensed brokers that if this practice is permitted among licensed real estate brokers, it enables a licensed broker, doing such a thing, to indirectly pay a fee or a commission to the borrower which he cannot do directly."

Your question, in our opinion, may be answered by a correct interpretation of the meaning of Section 15 of the act created by the Legislature, known as the "Missouri Real Estate Commission Act" and found at page 424 et seq., Laws of Missouri, 1941, which section 15 provides as follows:

> "No real estate broker shall pay any part of a fee, commission or other compensation received by the broker to any person for any service rendered by such person to the broker in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesman regularly associated with such broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the State of Missouri."

We find nothing in this section which would prevent a duly licensed real estate broker from assuming a substantial part or all of the costs of making a loan, such as title examination, recording and surveys for a legitimate borrower for whom the broker is negotiating a loan, or the broker may in lieu of the assumption of these costs pay to the borrower a cash premium in the way of a reduction of the commission. In other words, the licensed broker may charge whatever sum he desires to the borrower for making a loan. We think the purpose of Section 15 was to prevent a broker from having runners or other persons without licenses find borrowers for the broker and the broker spliting his commission with such unlicensed persons. Of course, under this act, under Section 15, a licensed real estate broker is permitted to pay any part of a fee, commission or other compensation to another person who "is a licensed real estate salesman regularly associated with such broker, or a licensed real estate broker, or a person regularly engaged in real estate brokerage business outside of the State of Missouri."

Conclusion

It is, therefore, our opinion that a licensed real estate broker may assume a substantial part or all of the costs of making a loan, such as title examination, recording, surveys etc., or remit to the legitimate borrower all or any part of his commission for negotiating a loan, without violating the Missouri Real Estate Commission Act.

Respectfully submitted,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

CRH:EG