

RECORDER OF DEEDS: Conservator duly appointed by Federal Home Loan Bank Board upon liquidation of Federal Savings and Loan Association would have authority to release deeds of trust and the Supervisor of Building and Loan Associations of Missouri has no control over the situation.

February 11, 1944



Miss Helen Masterson  
Recorder of Deeds  
Clay County  
Liberty, Missouri

Dear Miss Masterson:

This will acknowledge receipt of your letter dated February 7, 1944, wherein you requested an opinion from this Department. Your opinion request reads as follows:

"I will appreciate it very much if you will give me your opinion on the following matter.

"The affairs of the Liberty Federal Savings & Loan Association, of Liberty, Missouri, whose charter was granted by the Federal Home Loan Bank Board, are now in the hands of a conservator, who has been appointed for the purpose of winding up the affairs of such association.

"A number of loans have been paid to this association which are secured by deeds of trust of record in this office. It is now the desire of the conservator to release these deeds of trust, and I am in doubt as to who would have authority to make such releases.

"I find that Section 8249 R. S. Missouri, 1939, makes provision for the appointment, by the circuit court, of the supervisor as receiver, for the purpose of releasing of record any deeds of trust securing loans; but there is a question in my mind as to whether or not this section applies to Federal Savings & Loan Associations, or merely to state associations.

"If the above section does not apply to Federal Savings & Loan Associations, would an instrument, issued by the Federal Home Loan Bank Board, granting to the conservator the power to release deeds of trust of record, be sufficient authority for the conservator to make such releases, provided, of course, that this authority, together with his appointment as conservator, be duly recorded in this office, prior to his making such releases.

"I will be very grateful if you will inform me at your earliest convenience, as to what procedure I should follow.

"Thanking you for your usual courteous and prompt attention to the matter, and for opinions rendered in the past, I am"

A Federal Savings and Loan Association is a distinct Federal Agency organized under the Home Owner's Loan Act of 1933 and under the direct supervision and control of the Federal Home Loan Bank Board.

Section 1464 of title 12, U.S.C.A. provides:

"The Board (Federal Home Loan Bank Board) shall have full power to provide in the rules and regulations herein authorized for the reorganization, consolidation, merger or liquidation of such associations including the power to appoint a conservator or a receiver to take charge of the affairs of any such association and to require an equitable readjustment of the capital structure of the same; and to release any such association from such control and permit its further operation."

Section 8232, Revised Statutes of Missouri, 1939, provides that any state association may convert itself into a Federal Savings and Loan Association under certain conditions and

"\* \* \* upon the grant to any association of a charter by the Federal Home Loan Bank Board the association receiving such charter shall cease to be an association incorporated under

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this law and shall no longer be subject to the supervision and control of the Supervisor.\* \* \*

This section clearly excludes the Supervisor of Building and Loans Association of the State of Missouri from any authority where a Federal Savings and Loan Association is involved. It may be distinguished from section 8249, R. S. Mo. 1939, of which you speak in your letter. That section provides for a joint responsibility between the Federal Savings and Loan Insurance Corporation and the State Supervisor where the association is one organized and existing under the Laws of Missouri, and also has this Federal Insurance. It would not apply to a Federal Savings and Loan Association which is organized under the Home Owner's Loan Act of 1933 and also possesses this Federal Insurance.

CONCLUSION.

It is therefore the opinion of this office that where a Federal Savings and Loan Association is in the process of liquidation a conservator duly appointed by the Federal Home Loan Bank Board would have full authority to release deeds of trust and the Supervisor of Building and Loan Associations of Missouri would have no control over the situation.

Respectfully submitted,

Robert J. Flanagan  
Assistant Attorney-General

APPROVED:

ROY McKITTRICK  
Attorney General

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