

REAL ESTATE COMMISS : Banks and trust compan not required to secure real estate broker's license for the corporation to sell real estate loans, unless bank or trust company engages in the business of making loans for others.

May 4, 1945.



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

Dear Mr. Hobbs:

The Attorney General acknowledges receipt of your letter of March 15, 1945, requesting an opinion on the following question:

"A number of banks and trust companies in St. Louis and Kansas City, as well as towns throughout the state, make a number of real estate loans which they do not hold in their portfolio, but sell to customers, and under the Missouri Real Estate License Law may we ask if such banks and trust companies are required to secure a real estate license for the corporation and such officers as actively engaged in this business."

Banks and trust companies organized and existing under the laws of the State of Missouri are authorized to do such business as set out by statute and the powers they may have and business they may do is provided for in their charters issued by the State Finance Commissioner.

Section 7949, R. S. Mo. 1939, prescribes the rights and powers with which every corporation shall be authorized and empowered, and provides in part as follows:

"1. To conduct the business of receiving money on deposit and allowing interest thereon not exceeding the legal rate or

May 4, 1945

without allowing interest thereon, and of buying and selling exchange, gold, silver, coin of all kinds, uncurrent money, of loaning money upon real estate or personal property, and upon collateral or personal security at a rate of interest not exceeding that allowed by law, and also of buying, investing in, selling and discounting negotiable and non-negotiable paper of all kinds, including bonds as well as all kinds of commercial paper; and for all loans and discounts made, such corporation may receive and retain in advance the interest: Provided, however, that no bank shall maintain in this state a branch bank, or receive deposits or pay checks except in its own banking house."

Section 3, page 425, Laws of Missouri, 1941, specifically sets out persons exempt by law from obtaining or securing a real estate license to carry on their business. That part of said section is as follows

"* * * This act shall not apply to * * *; nor any bank, trust company, building and loan association, insurance company or farm-loan association, organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others; * * *"

Conclusion

It is, therefore, the opinion of this department that a bank or trust company may sell real estate loans without obtaining a real estate broker's license. But if said bank or trust company engages in the business of making loans for others, it thus becomes subject to the law requiring it to have a real estate broker's license.

Respectfully yours,



GORDON P. WEIR
Assistant Attorney General

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APPROVED:

J. E. TAYLOR
Attorney General