

SAVINGS AND LOAN:
DISTRIBUTION OF MONEY DUE
LIQUIDATED SAVINGS AND
LOAN ASSOCIATIONS CONSISTING
OF REFUNDS OF INSURANCE
PREMIUMS GROWING OUT OF
INSURANCE RATE LITIGATION
IN UNITED STATES COURT:

Money found by United States Court in insurance rate litigation to be due to certain liquidated building and loan associations being in the nature of premium refunds cannot be distributed according to provisions of Section 82a of S.B. 65, 65th General Assembly but will be escheatable to State of Missouri as unclaimed by the unknown owners within five years of the ruling of the court finding said money to be due to said liquidated savings and loan associations.

June 20, 1950

Honorable Clarence Webb
Supervisor, Division of Savings
and Loan Supervision
State Office Building



Dear Sir:

We have your recent letter in which you request an opinion of this department. Your letter is as follows:

"We are in receipt of a request from Mr. James E. Goodrich a Kansas City Attorney who was appointed by the United States District Court for Central Division of the Western District of Missouri, as Custodian in connection with the insurance rate litigation pending in the court, for information as to the question as to whom he should pay certain refunds, which have been adjudged to be due to some Savings and Loan Associations which have been liquidated and are not now in existence.

"The sums of money owing to said non-existing Savings and Loan Associations are very small, varying from sixty-five cents to three hundred and thirty-eight dollars and fifty-two cents and amounting to a total sum of only six hundred and fourteen dollars and ten cents. Mr. Goodrich has assumed that the records in our office will disclose the names of the persons who are entitled to receive these refunds and that we can tell him how to distribute said funds.

"In view of the inquiry directed to us by Mr. Goodrich and in view of the facts above set forth we have given some consideration to

the matter and it seems to us that the funds could be distributed pursuant to the provisions of Section 82A of Senate Bill 65, passed by the Sixty-Fifth General Assembly. We desire an opinion from your office, first, on the question as to whether or not such fund can be distributed pursuant to the provisions of the above mentioned Senate Bill. In the event that your answer to that question is in the negative we then desire your opinion as to whether or not, when a refund of a portion of an insurance premium or portions of more than one insurance premium is the property of a liquidated Savings and Loan Association such refund should be paid to the surviving stockholders of the association.

"If your opinion is that such refunds should be paid to the surviving stockholders of the liquidated associations we comment that this department does not have in its files lists of such stockholders and that it lacks the facilities to obtain such lists and we would therefore like for your opinion to cover the question as to whether this department is under any obligation to assist the Custodian appointed by the court in the solution of the problems involved in the distribution of these funds."

You ask whether or not sums of money constituting insurance premium refunds found by the United States District Court to be due to certain savings and loan associations which associations have been liquidated and out of existence for years can be distributed in accordance with the provisions of Section 82(a) of S.B. 65, 65th General Assembly. In your above quoted opinion request it is indicated that there is nothing in your files from which information as to the names of the former stockholders in said liquidated building and loan associations can be ascertained and that you lack facilities for making an investigation in order to inform yourself as to the names and addresses of such persons.

The pertinent portion of said Section 82(a) of S.B. 65, 65th General Assembly is as follows:

"If upon final liquidation and dissolution of an association, * * * any amount held by such association is distributable or payable to a member or other person whose address is unknown and cannot be ascertained within one year, such amount shall be paid to the supervisor, who shall make application to the circuit court of the county in which the principal office of said association is or was located for

Hon. Clarence Webb

an order designating a bank or trust company in such county in which all such monies may be deposited to the credit, respectively, of all such members or other persons, or the legal representatives thereof. A compliance with the terms of such order shall be a full discharge of all liability upon the part of the association to each such member or other person for the amount so distributable or payable. The amount of each such deposit shall be paid by the bank or trust company to the person to whose credit the deposit was made in the same manner and under the same conditions as if the deposit had been made personally by such person."

We are of the opinion that the above quoted section is not applicable to the conditions described in your letter for the reason that said section is especially designed for the accomplishment of the purpose of providing a way to dispose of sums of money due to unknown owners of portions of the assets of savings and loan associations in the process of liquidation and at the time that the liquidation is accomplished and that it does not contemplate distribution of sums of money accruing to the building and loan associations by virtue of refunds ordered by the court after liquidation has been completed.

Furthermore, we are of the opinion that Section 1 of an Act entitled Escheats, Gifts and Devises to the State, page 298, Laws Mo. 1947, is applicable to the facts involved in your opinion request.

Said Section 1 of said Act is as follows:

"After the owner, his assignee, personal representative, grantee, heirs, devisees or other successors, entitled to any moneys, refund of rates or premiums or effects by reason of any litigation concerning rates, refunds, refund of premiums, fares or charges collected by any person or corporation in the State of Missouri for any service rendered or to be rendered in said state, or for any contract of insurance on property in this state, or under any contract of insurance performed or to be performed in said state, which moneys, refund of rates or premiums or effects have been paid into or deposited in connection with any cause in any court of the State of Missouri or

Hon. Clarence Webb

in connection with any cause in any United States court, or so paid into the custody of any depository, clerk, custodian, or other officer of such court (whether the same be afterwards transferred and deposited in the United States Treasury, or not) shall be and remain unknown, or the whereabouts of such person or persons shall be and has been unknown, for the period heretofore, or hereafter, of five successive years, or such moneys, refund of rates or premiums or effects remain unclaimed for the period heretofore, or hereafter, of five successive years, from the time such moneys or property are ordered repaid or distributed by said courts, such moneys or property shall be escheatable to the State of Missouri, and shall be escheated to the State of Missouri in the manner hereinafter provided, with all interest and earnings actually accrued thereon to the date of the judgment and decree for the escheat of the same." (Underscoring ours)

We suggest the fact that the money referred to in your letter comes squarely within the provisions of the last quoted section said money constituting refunds of insurance premiums ordered by the United States court in insurance rate litigation and that the stockholders of the liquidated savings and loan associations involved are unknown owners and we are of the opinion that if they do not claim these funds within the statutory period of five years mentioned in said section said funds will be escheatable to the State of Missouri.

CONCLUSION

We are accordingly of the opinion that the custodian appointed by the United States court should hold these funds of these unknown owners until either the owners establish their right to same or until he has held such funds for the above mentioned statutory period of five years, after which time said funds will be escheatable to the State of Missouri.

Respectfully submitted,

APPROVED:



J. E. TAYLOR
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Assistant Attorney General

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