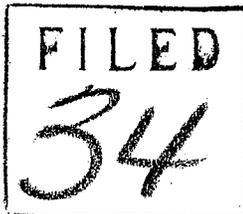


SAVINGS AND LOAN SUPERVISION: Savings and loan associations cannot invest their funds in such first mortgage building bonds to be used in constructing a building in Jefferson City, Missouri.



October 29, 1954

Mr. Morris G. Gordon, Supervisor
Savings and Loan Supervision
Department of Business and Administration
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion which reads in part:

" * * * 'The Chamber of Commerce of Jefferson City is contemplating the erection of a building for the use of a new industry coming to the city, to be financed by an issue of \$200,000 in first mortgage building bonds to be sold to the business interests of the city.

"These bonds would bear interest at the rate of 4% annually to be paid out of rental received from the new industry which will lease the building for a period of ten years.

"The Savings and Loan Associations of the city are interested in the success of this venture. The influx of new families coming to the city because of the new industry would create a demand for additional housing and for the financing of such housing.

"We should like to have an opinion from you as to whether each association could purchase a part of this bond issue and still come within the provisions of Section 369-360-1 of the Missouri Savings and Loan Statutes."

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Savings and loan associations are creatures of statute and receive authority to organize and operate thereunder by virtue of such statutes passed by the General Assembly and therefore, they have only such authority to make investments or loans as specifically provided by such statutes.

Sections 369.340 and 369.360, Missouri Revised Statutes Cumulative Supplement, 1953, are the particular statutes prescribing how such savings and loan associations may invest its funds and make real estate loans and read:

369.340. "1. Any association shall have power to invest its funds, without limit, in obligations of, or guaranteed as to principal and interest by, the United States of America or this state; obligations of federal home loan banks and of the federal savings and loan insurance corporation; accounts of any association doing business in Missouri, or which holds a valid certificate of insurance from the federal savings and loan insurance corporation.

"2. Any association shall have power, subject to limitations hereinafter stated, to invest its funds in bonds, notes or other evidences of indebtedness authorized by law and assumed, guaranteed or insured as to principal and interest by a state, city, county, drainage district, levee district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision of a city, county or state; provided, however, that the amount of funds invested at any time in such bonds, notes or other evidences of indebtedness shall not exceed in the aggregate ten per cent of capital and that each such bond, note or other evidence of indebtedness shall, when purchased, meet any requirements as to quality which the supervisor may and is hereby empowered to prescribe biennially with the written approval of an advisory committee consisting of the governor, lieutenant governor and attorney general."

369.360. "1. An association shall have power to make, buy and sell direct reduction periodical installment or term loans

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of any amount secured by first liens on real estate, subject to the following limitations: Each such loan shall be secured by home property, as herein defined, and shall not exceed twenty thousand dollars; provided, that an association may have invested an aggregate amount, not exceeding fifteen per cent of the aggregate balances of all loans held by it, in loans exceeding twenty thousand dollars each secured by first liens on home properties and in loans secured by first liens on other real estate, but no such loan shall exceed one per cent of the assets of the association or twenty thousand dollars, whichever is the greater."

Certainly this type of investment cannot come within the purview of Section 369.340, supra, unless possibly under that which provides that such associations may invest its funds in accounts of any association doing business in Missouri, or which holds a valid certificate of insurance from the Federal Savings and Loan Insurance Corporation. The word "association" has been defined under the act in Section 369.015, Subsection 1, RSMo 1949, and reads:

"When used in this chapter, the following words shall have the following meaning:

"(1) 'Association' shall mean a savings and loan association or savings association subject to the provisions of this chapter, including such an association now using the name 'building and loan association'; * * *."

In view of the foregoing definition of the word "association" as used in said chapter, we must conclude that such loans cannot be authorized thereunder.

We shall next consider the only other possible statute that might vest such authority to make this type of investment or loan, namely, Section 369.360, supra. This statute provides that such association shall have power to make, buy and sell direct periodical installments or term loans of any amount, under certain specific conditions. We believe that the provisions of Section 369.360, supra, are not applicable in this particular instance, that the proposal is not to make a loan as contemplated under Section 369.360, supra, but to invest

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money in first mortgage building bonds and that is controlled by and under provisions of Section 369.340, supra.

It has already hereinabove been decided that said associations cannot purchase said first mortgage building bonds by virtue of Section 369.340, supra.

CONCLUSION

Therefore, it is the opinion of this department that said savings and loan associations cannot invest their funds in such first mortgage building bonds.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Aubrey R. Hammett, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General

ARH:vlw