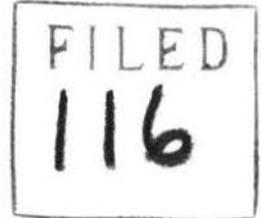


CREDIT UNIONS: The "one per cent a month on unpaid balances" interest  
USURY: rate limitation as expressed in Section 370.300, RSMo  
1959, is an exception to the general usury statute.  
The interest rate limitations of Section 408.030, RSMo  
1959, and Section 408.100, RSMo 1959, do not apply to credit union  
loans and credit unions may legally charge up to " \* \* \* one per cent  
a month on unpaid balances; provided, however, that a minimum interest  
charge not exceeding twenty-five cents per month shall be allowable  
in all cases."

OPINION NO. 116  
NO. 450 (1967)

March 19, 1968

Mr. Ira W. Whitson  
Supervisor of Credit Unions  
Division of Finance  
Jefferson Building  
Jefferson City, Missouri



Dear Mr. Whitson:

This is in response to your letter of November 22, 1967, asking for an opinion on a question which we have chosen to phrase in the following manner:

May a credit union, pursuant to Section 370.330, RSMo 1959, charge its members a maximum of one per cent a month on the unpaid balance on all loans that they make regardless of the size and type of the loan or the type and amount of security which is given; or, must they also meet the requirements of Sections 408.030 and 408.100, RSMo 1959, which govern commercial interest rates in general?

Section 370.300, RSMo 1959, states as follows:

"A credit union may lend to its members at reasonable rates of interest, which shall not exceed one per cent a month on unpaid balances; provided, however, that a minimum interest charge not exceeding twenty-five cents per month shall be allowable in all cases."

It is clear that a credit union cannot go above a maximum effective interest rate of twelve (12) per cent per year on any loan that it makes. However, Section 370.300 does not state whether interest rate limitations found in other parts of the statutes are to be applied to credit unions.

Mr. Ira W. Whitson

Missouri has a general usury statute which prohibits persons from agreeing on an interest rate in excess of eight per cent per annum. Section 408.030, RSMo 1959. A statute limiting the amount of interest which may be charged has been in effect in Missouri since territorial days. Act Nov. 5, 1808, 1 Terr. Laws, p. 221 §2. The purpose of such statutes is to prevent the exacting of interest rates which the law deems to be usurious.

Section 408.100, RSMo 1959, deals with " \* \* \* all loans of five hundred dollars or less which are not made as permitted by other laws of this state except that it shall not apply to loans which are secured by a lien on real estate, non-processed farm products, livestock, farm machinery or crops or to loans to corporations. \* \* \* " The Missouri Supreme Court has had occasion to consider a statutory predecessor of this law enacted in 1927. It was held in Vining vs. Probst, 186 S.W. 2d 611, that " \* \* \* all loans not exceeding \$300 in value [are] exclusively within the purview of the Small Loan Law; and all loans involving amounts greater than \$300 are exclusively under the regulations provided in Chapter 15, R.S.Mo. 1939." The Vining case held that the Small Loan Law was an exception to the general usury law and that when it applied it was to the exclusion of the general law. The court's rationale was that the Act of 1927, which created the Small Loan Law, repealed the general usury law by implication where the two were in conflict because it was (1) later in time than the general usury law and (2) dealt with the same subject matter in a more minute and particular way.

Under the present Small Loan Law, certain loans not exceeding five hundred dollars may be made at rates of interest up to 2.218 per cent per month on the unpaid balance. Credit unions may not avail themselves of this provision since Section 370.300, RSMo 1959, limits them to interest of one per cent per month on the unpaid balance. The question for consideration is whether credit unions which make loans for amounts in excess of the Small Loan Law must stay within the provisions of the general usury law (eight per cent) or whether they may charge up to twelve per cent regardless of the size of the loan.

The 54th General Assembly, which enacted the Small Loan Law interpreted by the court in the Vining case, also enacted the law governing credit unions (Laws of 1927, p. 166). Section 14 of that law said that "A credit union may lend to its members at reasonable rates of interest, which shall not exceed one per cent a month on unpaid balances . . . " (Laws of 1927, p. 170, §14). This provision, enacted at the same time as the Small Loan Law, would seem to have the same legal effect. The provision deals with interest rates on all loans made by credit unions. It is, therefore, later

Mr. Ira W. Whitson

in time than the general usury law and deals with the same subject matter (lending money) in a specific and particular manner. It can be viewed as an exception to the general usury law by following the reasoning of the Vining case. Under that rationale, the general usury statute would not apply to loans made by credit unions.

The fact that the Legislature put the twelve per cent interest rate limitation in the credit union law must be construed to have some meaning, otherwise they will be deemed to have acted in vain. If the Legislature had intended for credit unions to be governed by the existing general interest law, it is unlikely that they would have put a twelve per cent limitation on credit union loans. It is reasonable to assume that the Legislature intended to make the twelve per cent limitation apply in lieu of the eight per cent limitation under the general interest law.

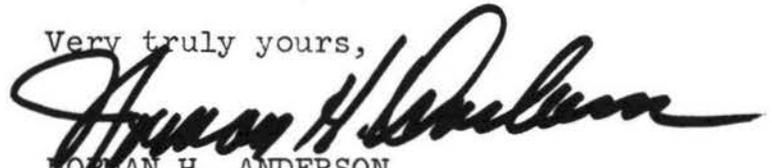
Historically, credit unions have been organized by groups of persons having some type of common bond with each other. Often, for example, it would be a bond established by place or nature of employment. A different relationship exists between loans made by credit unions to their members and loans negotiated between two completely unrelated parties. The Legislature recognized credit unions as a separate and independent type of lending institution by enacting the credit union law as a separate law. It is natural that the General Assembly meant for them to operate under a different interest rate limitation than that set up for other loans.

#### CONCLUSION

It is the opinion of this office that the "one per cent a month on unpaid balances" interest rate limitation as expressed in Section 370.300, RSMo 1959, is an exception to the general usury statute. We hold that the interest rate limitations of Section 408.030, RSMo 1959, and Section 408.100, RSMo 1959, do not apply to credit union loans and credit unions may legally charge up to " \* \* \* one per cent a month on unpaid balances; provided, however, that a minimum interest charge not exceeding twenty-five cents per month shall be allowable in all cases."

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Gary G. Sprick.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General