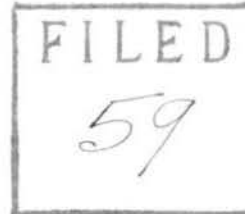


BUILDING AND LOAN ASSOCIATIONS: Right to engage in insurance business as insurer or agent. ✓

May 2, 1933



Honorable Ira A. McBride  
Bureau of Building and Loan Supervision  
Jefferson City, Missouri

Dear Mr. McBride:

We acknowledge receipt of letter from your Department dated April 18, 1933, as follows:

"Please note the enclosed letter received from H. C. Ferry, Agent for the New Hampshire Fire Insurance Company, in which he requests an opinion in regard to building and loan associations writing insurance on properties on which they hold a loan.

Mr. Ira A. McBride, Supervisor, has had several inquiries relative to this matter, and, therefore, requests an opinion from your Department".

The authority and power of the building and loan associations in this state are controlled by the statutes authorizing the organization of such associations. Such associations possess such power and authority as is given by such statutes, together with the implied authority to do the things necessary to be done in carrying out the objects and purposes of such associations.

Section 5585 Laws of 1931, page 144, provides that any number of persons not less than twenty-five, residents of this state, who shall have associated themselves together by an agreement in writing with the intention to constitute a corporation for the purpose of assisting each other and all who may after become associated with them in

acquiring real estate, making improvements thereon and removing encumbrances therefrom by advancing to its members out of a fund accumulated by the payment of periodical installments or otherwise, and for the further purpose of accumulating the savings of its members to be returned to certain of its members, may become a corporation and on complying with the provisions of Chapter 35 Revised Statutes Missouri, 1929.

Section 5587 Laws of 1931, page 145, authorizes the supervisor of building and loan associations to certify to the Secretary of State that a building and loan association is lawfully entitled to commence the business for which it is organized and entitled under the law to conduct.

Section 5593 further provides that any association if organized in pursuance of the provisions of Chapter 35, shall have all the powers provided for in such Article and that the object of such corporation shall be the accumulation of a capital in money, to be derived from payments by its members in periodical installments or otherwise, at such time and in such manner as shall be provided in the by-laws, and from the profits and accumulation arising from the investment of such payments.

The general powers of building and loan associations are set out in 9 C. J. page 952, Section 63.

The case of Building and Loan Associations v. Barrett, et al, 160 Mo. App. 164, involved the power of building and loan associations to make general purchases of real estate and take title thereto, and on page 185 of the opinion the court said:

"We think that by a consideration of the whole scope of powers granted to building and loan associations by this statute it must be concluded that the Legislature intended to deny to such associations the right to enter the real estate market and become real estate brokers and speculators and to hazard the accumulation of the funds of its members in real estate deals. The rule of statutory construction would apply - "Expressio unius est exclusio alterius" -

May 2, 1933

and a proper interpretation of the statute prohibits, by implication at least, building and loan associations from making purchases in a general way of real estate; and, of course, the purchase of the twenty-acre tract of land under the theory upon which the defendants' defense was constructed in this case would be equally prohibited by the statute, although indirectly made".

But as we said above, the powers and authority of such associations are defined by statute and beyond the power given them they can not go, no authority being given in Chapter 35 authorizing building and loan associations to engage in the insurance business, either as an insurer or as an agent it necessarily follows that such associations have no such power and authority, and such power and authority could not be given such associations either by a by-law passed by such an association or by an amendment to the charter of such association.

Very truly yours,

GILBERT LAMB  
Assistant Attorney General.

APPROVED:

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Attorney General.

GL:LC