

BUILDING AND LOAN ASSOCIATIONS:

Ratio or pro rata in  
which matured shares  
should be paid.

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5603-04 Laws 31

June 9, 1933

FILED

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Honorable Ira A. McBride  
Supervisor Building and Loan Associations  
Jefferson City, Missouri

Dear Mr. McBride:

Receipt of your letter dated June 7, 1933,  
is acknowledged. Your letter is as follows:

"This Department has recently received several inquiries in regard to the method associations are using in paying withdrawal notices. Briefly, the question is as follows:

A person is a holder of savings shares, prepaid or full-paid shares in a building and loan association and has made application for withdrawal and is being paid each month on a percentage basis. On April 1st the association had some savings shares that had matured by reason of the monthly payments having been completed or has permitted pre-payments to bring them to maturity. The question involved is this: Should the association pay these matured shares in full or should these matured shares be paid upon the same pro-rata basis as those other shares on which withdrawal notice has been given?

We will appreciate your opinion on the above matter at your earliest convenience".

We assume your letter has particular reference to Sections 5603 and 5604, Laws of Missouri 1931, pages 154 and 155, and we further assume that the by-laws of the

Association about which you inquire contains nothing contrary to the provisions of the above sections.

Section 5603 deals principally with matured shares of stock in a building and loan association. The latter section provides in part that whenever an unpledged share shall reach its maturity - that is when the same is paid out - all payments thereon shall cease and the holder of such stock may withdraw from the association as provided in the Building and Loan Act. If the shareholder does not withdraw the matured stock becomes fully paid up in a sum equal to the matured value of the share or shares. It is further provided in the latter section that at no time shall more than one-half of the funds in the treasury of the Association be used or applicable for or to the payment of such matured shares without the consent of the directors of the Association. It is further provided in the section that the directors of the Association may, in their discretion, under rules made by them, force the retirement or payment of all unpledged fully paid shares, or prepaid shares, at any time, and may also in like manner enforce the retirement or acceptance of the payment of the value of installment shares at any time after the expiration of three years from the date of the issue thereof. It is further provided that the matured shareholders shall be entitled to receive and shall be paid the full value of their shares at the time of the enforced retirement, less all fines and the proportionate part of any loss that may be allotted to such matured shares. It is further provided in the latter section that no stock in a building and loan association shall be matured or money paid thereon except with the consent and approval of the Supervisor of Building and Loan Associations.

From the above section it appears then that upon the maturity of any shares of stock in an Association the value thereof becomes at once due and payable, the only limitation being that at no time shall more than one-half of the funds in the treasury be applicable to the payment of such matured shares without the consent of the directors.

By which section we think the legislature meant and intended that matured stock should be paid according to its value and according to the time of its maturity, whether the same became due as a part of a series or otherwise.

Section 5604 deals with shareholders who desire to withdraw but who have not matured their shares of stock. It will be noticed that Section 5604 provides that not more than one-half of the receipts of the corporation for any fiscal month shall be applied to the demands of the withdrawing unmatured shareholders, which will likely represent quite a different sum than one-half of

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the funds in the treasury of the Association which may be paid out on matured shares under Section 5603, and also Section 5604 provides that in case a corporation is indebted on matured shares of an earlier series than the series of the withdrawing and unpaid shares, then the corporation can not pay more than one-third of the receipts for any fiscal month on account of the withdrawing and unpaid shares, whereas if a corporation is not indebted on matured shares of an earlier series then it may pay one-half of the receipts for any fiscal month on account of the withdrawing and unpaid shares.

We are of the opinion that the first matured shares mentioned in the second paragraph of your letter should be first paid in full up to the extent of the funds on hand as the same are applicable as provided by law or as ordered by the board of directors and according to the dates of their maturities, and if the amount permitted or ordered to be paid on account of such matured shares be not sufficient to pay all of such first matured shares in full, then the amount permitted or ordered to be paid shall be pro rated among the first matured shares in the order of their maturities. That is, the first matured shares shall be paid first whether issued as a series or otherwise.

Very truly yours,

GILBERT LAMB  
Assistant Attorney General,

APPROVED:

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ROY McKITTRICK  
Attorney General.

GL:LC