

BUILDING AND LOAN: Building and Loan Associations are not permitted to conduct a safety deposit box business as such is not conferred by their charter.

June 25, 1935.



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

Attention Mr. J.W. McCammon
Chief Clerk.

Dear Sir:

This is to acknowledge your request for an opinion as follows:

"Please let us have an opinion as to whether a building and loan association's charter would permit the association to conduct a safety deposit box business as a side issue to the building and loan business."

We have searched the building and loan statutes and nowhere do we find any authority permitting a building and loan association to conduct a safety deposit box business. Chapter 34 R. S. Mo. 1929 pertains to the State Department of Finance, and Article V of said chapter pertains to savings banks and safety deposit institutions, and referring to said Article it is seen that provision is made for the creating of a corporation to conduct a safety deposit box business. Section 5496. Banks and Trust Companies may also engage in the safety deposit box business upon compliance with Articles II and III of said chapter.

It is thus seen that the Legislature has enacted statutes pertaining to safety deposit boxes and has seen fit to place a limitation upon who may engage in said safety deposit box business. Nowhere is it provided that building and loan associations may engage in said business.

Corpus Juris, Vol. 9, entitled Building and Loan Associations, paragraph 63, page 952 has the following to say:

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"Building associations can exercise only such powers as are conferred by the legislative body creating them, either by express terms or by necessary implication. While it may be said that they have the usual powers of corporations, this is true only in a general way, as frequently the statute authorizing their creation, or the charter granted them, confers powers not possessed by corporations generally and withholds powers possessed by other corporations."

In *Grohmann v. Brown*, 68 Mo. App. 630, 1. c. 635, the Kansas City Court of Appeals in 1897 said the following concerning a building and loan association:

"The rule is well settled that corporations can only exercise such powers as are granted to them by their charter or are necessarily implied from those expressly granted. The statute under which the association was organized neither expressly nor by necessary implication conferred on it the power and authority of a bank of deposit or discount. It nowhere lends countenance to the notion that associations created under its provisions are authorized to borrow money to loan to its members or others. The exercise of this function is beyond the limits of the grant of their statutory powers."

We answer your question in the negative, and such is our opinion.

Yours very truly

APPROVED:

James L. HornBostel
Assistant Attorney General.

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General