

Opinion No. 260.

Building and Loan Associations—Federal Home Loan Bank—Borrowing From—State Superintendent of Banks.

HELD: A Montana building and loan association may pledge and hypothecate any of its assets to secure loans from the Federal Home Loan Bank without the consent of the state superintendent of banks.

September 13, 1940.

Hon. W. A. Brown
Superintendent of Banks
The Capitol

Dear Mr. Brown:

You have submitted the question whether a Montana building and loan association may pledge and hypothecate any of its assets to secure loans from the Federal Home Loan Bank without the consent of the state superintendent of banks.

Subdivision 12 of Section 6355.13, R. C. M., 1935, as amended by Chapter 80, Laws of 1939, reads as follows:

“* * * also to borrow money from the federal home loan bank upon such terms as may now or hereafter be required by the federal home loan bank, and to execute the promissory note of the corporation therefor, and to pledge or hypothecate any of the assets of the corporation to secure the repayment of said loan, with interest, in accordance with the federal home loan bank act, and the rules and regulations adopted or to be adopted thereunder.”

It will be noted that this proviso contains no limitation or restrictions. The legislature doubtless felt that none was necessary or advisable in borrowing money from the Federal Home

Loan Bank and that the Federal Act, Rules and Regulations concerning the same would be sufficient. At any rate, we are unable to advise you that in the absence of statutory limitations that any limitations may be imposed by the state.

We are unable to agree with the opinion of the Attorney General in Volume 16, Opinions of the Attorney General, 361. The reasoning used by the Attorney General in answering the first question should have led him to answer the second question in the same way as the first, or, in other words, to come to the opposite conclusion.