

Corporation May Do Banking Business, When. Banking Business, Under Special Law. Investment and Loan Companies, Subject to Examination by State Examiner. State Examiner, May Examine Investment and Loan Companies.

1. A corporation to do a banking business must be incorporated under a banking law of the State, and such banking laws are specific enactments.

2. A corporation transacting an "investment and loan" business is subject to examination by the State Examiner.

Helena, Montana, January 8, 1909.

Hon. F. H. Ray, State Examiner, Helena, Montana.

Dear Sir:

I am in receipt of your inquiry

"As to whether a corporation incorporated under the General Corporation Law of the State, can legally transact a banking business, and, as to whether such corporation, doing an investment and loan business, is subject to examination by you."

A corporation to do a banking business must be incorporated under a banking law of the state. Section 393, of the Civil Code of Montana (Sec. 3808, Rev. Codes), does not confer any authority upon any corporation, but merely enumerates the purposes for which private corporations may be formed. Incorporation under the general corporation law is not sufficient to authorize a company to transact a banking business. Our banking laws are specific enactments relating to the particular banking to be done: as,

Banks of discount and deposit, Sec. 3909 Rev. Codes;

Trust, deposit security corporations, Sec. 3923 Rev. Codes;

Savings banks, Sec. 3945 Rev. Codes;

Endowment and investment companies, Sec. 3959 Rev. Codes;

Foreign banking corporations, Sec. 3976, Rev. Codes.

There is no law of this state specifically authorizing the creation of "investment and loan corporations" by that particular name.

Sec. 3808, Revised Codes.

The corporation you have in mind perhaps relies upon subdivision 14 of said Section 3808, and while it cannot do a banking business with-

out complying with the specific laws relating to banking, yet if it does transact the business of an "investment and loan" company it is subject to examination by you, as to such business, under the provisions of subdivision 4, Section 209, Revised Codes, which reads, in part:

"Investment and loan company incorporated under the law of this state, or doing business under any law of the state concerning corporations, and to examine into their affairs and ascertain their financial condition;"

The phrase "any law of the state concerning corporations" would seem to indicate that the "investment and loan" business might be transacted by a corporation, though such corporation was not incorporated for that particular business; that is, that the investment and loan business might be transacted by the company in connection with some other business, and, under the authority of the statute, you have the right to examine that branch of the business relating to the investment and loans.

Very respectfully yours,

ALBERT J. GALEN,
Attorney General.