

**Bank and Trust Companies, Use of Certain Names by.
Name of Bank, Use of.**

The prohibition against the use of the words "bank," "banker", "trust company" or "investment company", found in Section 24 of Chapter 89 of the Session Laws of 1915, do not apply to persons who are engaged exclusively in loaning money.

August 3, 1916.

Hon. A. M. Alderson,
Secretary of State,
Helena, Montana.

Dear Sir:

Heretofore in answer to an oral request, this office advised you that the words "bank," "banker," "investment company," "trust

company," etc., could not be used by persons not under the jurisdiction of the state banking department. It did not clearly appear, however, in the oral request, just what the business proposed to be conducted was. By letter, under date July 29th, 1916, you make specific inquiry whether the prohibition applies to persons or corporations who are engaged in merely loaning money.

Careful examination of the Act seems to indicate an intention on the part of the legislature to exempt from the provisions of Section 24 of the State Banking Act, persons or corporations of this class. While loaning money is a portion of the business of an ordinary bank, there is a distinction between a person or a corporation engaged in that business exclusively, and one doing in addition a deposit and discount business. In the former business, the person or corporation carrying it on becomes a creditor of the borrower. In the other class, the institution by receiving deposits becomes indebted to a large number of persons. There is, therefore, a much stronger reason for requiring them to be examined, and make reports from which their stability may be judged, than if they were engaged exclusively in loaning money.

As to the requirements to be met by a corporation desiring to loan money in this state, there seems to be no requirement in the law for making the nature of the business to be transacted a matter of record, other than what appears in the Articles of Incorporation. The duties of the Secretary of State seem to be merely ministerial. It is suggested that this matter might be made plain by having the corporations asking to have their Articles filed, accompany the Articles with a certificate from the governing officers thereof of the true nature of the business expected to be transacted in this State. It is perhaps not amiss to point out that a very severe penalty is prescribed for violating the provision prohibiting the use of these words. Undoubtedly, any person or corporation, who, under the guise of loaning money, used the prohibited names and received deposits, or did any other banking business, than loaning money, would be subject to the forfeiture of \$100 per day provided for in Section 24. I am of the opinion that the use of the words suggested is not prohibited to persons or corporations whose business is exclusively that of loaning money, and who do not receive money on deposit, or carry on the business of an ordinary bank or trust company, or otherwise bring themselves under the jurisdiction of the State Banking Department.

Yours very truly,

J. B. POINDEXTER,

Attorney General.