

Building and Loan Associations—Banks and Banking—Loans.

A building and loan association is not subject to any limitations regarding the amount of loans on real estate, except those provided in its constitution and by-laws.

Alva C. Baird, Esq.,
Attorney at Law,
Missoula, Montana.

April 28, 1925.

My dear Mr. Baird:

You have requested my opinion whether a building and loan association is subject to the limitations on the amount it may loan on real estate prescribed by section 6062, R. C. M. 1921, as amended by chapter 90, laws of 1923.

This section, according to its terms, is a limitation upon commercial banks only. A building and loan association is not engaged in the banking business. (First National Bank vs. County of Dawson, 66 Mont. 321.)

The court in the Dawson county case said:

"These associations are not in any proper sense 'banking institutions,' nor are they permitted to carry on a banking business. Under our statutes, banks are divided into the following classes: Commercial banks, savings banks, trust companies, and investment companies. (rev. codes 1921, sec. 6015.) Building and loan associations do not come within the statutory definitions of either of these classes (rev. codes, 1921, secs. 6017-6020), and the design of the legislature has been to prevent them from doing business in competition with either."

Under section 635S, R. C. M. 1921, as well as under chapter 101, laws of 1925, building and loan associations have power "to make loans to members and depositors on such terms, conditions, and securities as may be provided in the constitution and by-laws."

Section 6355, R. C. M. 1921, as well as chapter 104 of the laws of 1925, in treating of building and loan associations, provides:

"Such associations shall be organized under the laws of this state relating to corporations, and shall be conducted under the banking laws of Montana, so far as applicable, except as otherwise provided in this act."

One of the principal objects of a building and loan association is to loan money on real estate and to encourage the building of homes. In that respect it is much different than a commercial bank.

It is my opinion, therefore, that the limitations on commercial banks set forth in section 6062, as amended by chapter 90, laws of 1923, do not apply to building and loan associations but that they are governed by such limitations only as may be provided by their constitution and by-laws.

Very truly yours,

L. A. FOOT,
Attorney General.