

**Opinion No. 313****Building and Loan Associations—Investment of Assets—Mortgages—Home Owners' Loan Corporation Bonds.**

HELD: A Building and Loan Association, upon the approval of the Superintendent of Banks, may invest not to exceed ten per cent of its assets in bonds of the Federal Home Owners' Loan Corporation in satisfaction of a mortgage held by it upon the real property of one of its members.

August 16, 1933.

You request our opinion on the propriety of Building and Loan Associations accepting bonds of the Home Owners' Loan Corporation in exchange for real estate mortgages held by them, at the same time stating that they were showing some hesitancy in the matter because of the belief that the laws of this state do not permit them to invest in such securities and because there is at present no way of knowing what their future market value will be.

Section 1 of Chapter 11, Laws of 1933, provides, among other things, as follows:

"Every building and loan association is a creature of the law having certain powers and duties of a natural person and as such has power: \* \* \*

"(13) To make loans to members on the security of the shares of the association, and also on their notes secured by first mortgages on improved real estate, including suburban homes. \* \* \*

"(14) To cancel such loans and release the securities on such terms as the Board of Directors may provide. \* \* \*

"(15) To invest the money of the association in:

"(a) The bonds and securities of the United States, and the stocks, bonds, debentures and other securities and obligations of any Federal Home Loan Bank created under the laws of the United States;

"(b) The bonds and warrants of any state and of any county, city or school district of the State of Montana; and

"(c) Not to exceed ten (10) per

cent of the association assets in such other bonds and securities as may be approved by the Superintendent of Banks."

The law being as just set forth, it seems obvious that the board of directors of the association may, if it sees fit, change the form of the association's investment, so to speak, and take the bonds of the Home Owners' Loan Corporation in satisfaction of a mortgage held by it upon the real property of one of its members, in a case where such member has applied for and obtained a bond loan from the corporation for such purpose. In acting thus, however, the mandate of paragraph (c), supra, must be observed, for the association may not do indirectly what it is prohibited from doing directly.

We are not qualified to speak on the prospective market value of the bonds of the Home Owners' Loan Corporation. Doubtless they will fluctuate in value from time to time: all bonds have a habit of so doing. Suffice it to say that they shall bear interest at the rate of 4 per cent per annum, guaranteed by the United States for a period of not to exceed 18 years; that they shall be exempt, both as to principal and interest, from all taxation except sur-taxes, estate, inheritance and gift taxes; that the corporation shall accept them at face value in full or part payment of any debt owing to it, and that the Congress in the Home Owners' Loan Act has devised what appears to be a safe and conservative method for their payment as they fall due.

Note: See Opinion No. 524, this volume. The 10% restriction is not removed by Chapter 5, Laws of 1933-34.