

3344

BUILDING AND LOAN ASSOCIATION—TRANSFER OF DIVIDENDS TO MEMBERS ACCOUNT—PAYMENT TO MEMBERS—
§§1151.52, 1151.02, 1151.55, R.C.

SYLLABUS:

Under Section 1151.52, Revised Code, a building and loan association organized under the laws of this state may not transfer dividends to the credit of members more often than semiannually, but dividends so transferred may be paid to said members, in conformity with Sections 1151.02 to 1151.55, inclusive, at such times as is provided by the constitution and bylaws of the association.

Columbus, Ohio, October 17, 1962

Hon. Andrew C. Putka, Superintendent
Building & Loan Associations
407 State Office Building, Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“In order to properly administer the affairs of building and loan associations chartered by the State of Ohio, it is my desire to submit to you for opinion the following question:

“Is a building and loan association, organized under the laws of this State, authorized to pay or credit dividends to members more often than semiannually from either net earnings or undivided profits or both?”

Section 1151.52, Revised Code, dealing with the payment of dividends by a building and loan association, reads as follows:

“After payment of expenses and interest, a portion of the earnings of a building and loan association to be determined by the board of directors shall, annually or semiannually, be placed in the reserve fund for the payment of contingent losses. A further portion of such earnings to be determined by the board shall, annually or semiannually, be transferred to the credit of members of the association as a dividend, in such proportions as the constitution and bylaws of the association provide. Such association is not required to credit or pay dividends on accounts of less than ten dollars. Such dividends shall be paid to such members at such time and in such manner, in conformity with sections 1151.02 to 1151.55, inclusive, of the Revised Code, as such constitution and bylaws provide. Any residue of such earnings not credited to reserves, or the reserve fund under section 1151.50 of the Revised Code, and not declared as dividends, may be held as undivided profits and used as other earnings.”

The above provision of law specifically states that dividends *shall* be transferred from earnings to the credit of members “annually and semiannually.” Such dividends are then actually paid to the members at the times provided in the constitution and bylaws of the association. Section 1151.52, *supra*, appears to be clear and unambiguous in this regard and in no need of interpretation. In this regard, I believe that the reference to

payment means that *withdrawals* of dividends shall be made in accord with the association constitution and bylaws.

I note that the provisions of Section 1151.52, *supra*, are consonant with those of Section 1151.43, Revised Code, which reads as follows:

“A building and loan association may make such *annual or semiannual* distributions of its earnings as is provided in sections 1151.44 to 1151.55, inclusive, of the Revised Code, and as its constitution and bylaws prescribe.” (Emphasis added)

I also note that under Section 1151.52, *supra*, undivided profits are used as other earnings; thus, crediting of dividends from undivided profits would be subject to the “annually and semiannually” provision of that section.

Accordingly, it is my opinion and you are advised that under Section 1151.52, Revised Code, a building and loan association organized under the laws of this state may not transfer dividends to the credit of members more often than semiannually, but dividends so transferred may be paid to said members, in conformity with Sections 1151.02 to 1151.55, inclusive, at such times as is provided by the constitution and bylaws of the association.

Respectfully,

MARK McELROY

Attorney General