

APPROVAL, BONDS OF BELMONT COUNTY, \$55,000.00, TO IMPROVE I. C. H. No. 295, SECTION M, BARNESVILLE-BELLAIRE ROAD.

COLUMBUS, OHIO, September 20, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

BUILDING AND LOAN ASSOCIATIONS—OPENING OF OFFICE FOR PURPOSE OF RECEIVING DEPOSITS IS ESTABLISHING A BRANCH—APPROVAL OF SUPERINTENDENT OF BUILDING AND LOAN ASSOCIATIONS—H. B. NO. 88.

SYLLABUS:—The opening of an office for the purpose of soliciting and receiving deposits in a different locality from the office of the association, as the establishing of more than one office or is maintaining a branch, and as such is subject to the approval of the superintendent of building and loan associations under the provisions of section 9643-4.

COLUMBUS, OHIO, September 21, 1923.

HON. J. W. TANNEHILL, *Superintendent of Division of Building and Loan Associations, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your recent communication as follows:

“We are in receipt of a letter from R. G. D., Esq., Attorney at Law, W., Ohio, from which we quote as follows:

‘The Association is now considering a proposition whereby savings deposit accounts will be solicited in a neighboring community, which has no bank or building and loan associations, by two reputable men who are residents of the community in question. If their proposition is accepted, these men will solicit accounts and will accept money to be forwarded to the Association here for deposit. We assume that this will not constitute the establishment of a branch office within the provisions of section 9643-4 but desire your specific instructions on this matter. The representatives soliciting accounts will have no authority to pay out money upon withdrawals nor to make loans, all of which business will be transacted from the Association’s office in W., although money will be accepted by the representatives at their office in the community in question for deposit. We shall of course take care to protect ourselves by having the representatives adequately bonded in case their proposition is accepted.’

Will you please advise if the position therein taken is a correct interpretation of the provision contained in section 9643-4, or does the handling of the business of a building and loan association in the manner therein indicated

constitute the establishment of a branch office and require approval of this department before such action is taken."

House Bill No. 88, as passed by the last legislature, is entitled "An Act for the better regulation, management and inspection of building and loan associations . . ."

As the title indicates this is a regulatory act and section 9643-1, General Code of Ohio, as amended above, as far as pertinent, provides:

"Upon the receipt of a copy of the articles of incorporation of such proposed building and loan association, the superintendent of building and loan associations shall immediately examine into all the facts connected with the formation of such proposed corporation, including its location and proposed incorporators, and if it appears that such corporation, if formed, will be lawfully entitled to commence business for which it is organized and entitled under the law to conduct, the superintendent of building and loan associations shall so certify to the secretary of state, who shall thereupon record such articles of incorporation. But the superintendent of building and loan associations may refuse to so certify to the secretary of state if upon such examination and investigation he has reason to believe that * * * the public convenience and advantage will not be promoted by its establishment. * * *"

By this section it is placed in the hands of the superintendent of building and loan associations to decide whether public convenience and advantage will be promoted by the formation of a building and loan association in a certain community.

Section 9643, General Code of Ohio, as amended above, as far as pertinent, provides:

"A corporation for the purpose of raising money to be loaned to its members, and others, shall be known in this chapter and in the laws relating to the department of building and loan associations as a 'building and loan association' or as a 'savings association'."

By the above section part of the business of a building and loan association is the soliciting, raising and accepting deposits of money to be loaned to its members.

Section 9643-4, General Code of Ohio as amended above, in so far as pertinent, provides:

"No association shall establish more than one office nor maintain branches, other than those already established, except with the approval of the superintendent of building and loan associations, previously had in writing. * * *"

It will be noted that the above provision uses the words "more than one office nor maintain branches." The word "office" is defined in Funk and Wagnall's standard dictionary as "a room or building in which a person transacts his business or carries on his stated occupation." The word "branch" is defined in Funk & Wagnall's dictionary as "a separate or diverging part or offshoot; division; a department, a subordinate or coordinate class; as a branch of business."

The superintendent of building and loan associations has power to refuse to certify that a building and loan association is lawfully entitled to conduct business for the reason that the public convenience and advantage will not be promoted, and the provision making it necessary for an association to secure the approval of the superintendent of building and loan associations before it may establish more than one office or maintain branches must necessarily be based on the same reason.

The opening of an office for the solicitation and acceptance of deposits is the maintaining of an office or branch for conducting a part of the business of an association.

If an association may open an office for the solicitation and acceptance of deposits without the approval of the superintendent of building and loan associations, for the reason that it does not transact all the business of an association, it could also open a separate office in the same community, which office would not receive deposits but would only receive applications for loans and grant same without the approval of the superintendent of building and loan associations.

It is therefore my opinion that the opening of an office for the purpose of soliciting and receiving deposits in a different locality from the office of the association, is the establishing of more than one office or maintaining a branch, and as such is subject to the approval of the superintendent of building and loan associations under section 9643-4 G. C.

Respectfully,
C. C. CRABBE,
Attorney General.

761.

ABSTRACT, STATUS OF TITLE, NORTH HALF OF LOT 31 HAMILTON'S
SECOND GARDEN ADDITION, COLUMBUS, OHIO.

COLUMBUS, OHIO, September 21, 1923.

HON. CHARLES V. TRUAX, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—An examination of an abstract of title submitted by your office to this department discloses the following:

The abstract under consideration was prepared by Adolph Haak & Company, abstracters, August 10, 1905, and continuations made thereto as follows: By Robert J. Beatty, September 11, 1908; by J. H. Graves, abstractor, June 10, 1913; Eugene Morgan, attorney, December 8, 1913; and E. M. Baldridge, attorney, September 8, 1923. The above abstract pertains to the following premises:

Being the north half of Lot 31 of Hamilton's Second Garden Addition to the city of Columbus, Ohio, as the same is numbered and delineated on the recorded plat thereof, recorded in Plat Book 7, page 186, Recorder's office, Franklin County, Ohio, saving and excepting therefrom six feet off the rear end thereof reserved for the purpose of an alley.

Upon examination of said abstract, I am of the opinion same shows a good and merchantable title to said premises in Lloyd L. Jones, subject to the following exceptions:

The release of the mortgage shown at section 8 of the first part of the abstract is in defective form, but as the note secured by the mortgage has been long past due, no action could be maintained upon same. The release shown at section 14 is also defective but shows that the notes secured by the mortgage were undoubtedly paid.

The abstract here under consideration nowhere shows restrictions as mentioned in the numerous other abstracts that have been examined with reference to other adjoining lots, and while the restrictions do not appear in this abstract, it is no doubt