

**OPINION NO. 66-116**

**Syllabus:**

A five year loan secured by vacant building lots, made by a building and loan association under authority of Section 1151.291 (B) and (F), Revised Code, need not have a specific rate of amortization during the entire five year period, and need not have monthly payments substantially equal in amount.

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**To: J. Gordon Peltier, Director, Department of Commerce, Columbus, Ohio**  
**By: William B. Saxbe, Attorney General, June 30, 1966**

Your request for my opinion reads as follows:

"The Division of Building and Loan Associations, of this department has asked us to request

your opinion relative to the following facts and laws regulating their activities:

"A building and loan association granted a mortgage loan under the provisions of Division (B) and (F) of Section 1151.291, Revised Code, in the amount of \$144,730.00 due in five years from date of note secured by vacant building lots and containing the following terms of repayment:

"\$15 per month on principal during the first four years.

"\$12,000 per month on principal during the fifth year.

"Interest payable quarterly computed on the reduced monthly balance.

"Your opinion is requested as to whether or not such unequal monthly payments are in conformity with Division (F) of Section 1151.291, Revised Code, which provides that loans 'shall be repayable monthly within a period of five years'?"

Section 1151.291, Revised Code, reads in pertinent part as follows:

"A building and loan association may make loans to members and others on such terms as are provided by the association upon obligations secured by real estate subject to the procedures of section 1151.292 of the Revised Code and the following limitations:

"\* \* \* \* \*

"(B) The real estate pledged to secure the obligation shall be any real estate upon which one or more buildings have been permanently erected, other real estate which produces sufficient income to maintain the property and retire the loan in accordance with its terms, or building lots or sites, provided such lots or sites abut on streets, which by reason of installations and improvements, including such services and utilities as are available and common to the area, that have been completed are ready for the construction on each such building lot or site of a structure designed for residential use. Loans secured by building lots or sites are subject to the special limitations provided in division (F) of this section and shall not aggregate more than three per cent of the association's assets. In addition building lots or sites pledged to secure the obligation shall be free and clear of any unpaid assessments for improvements.

"\* \* \* \* \*

"(F) Notwithstanding divisions (C), (D), and (E) of this section, loans on the security of building lots or sites as described in division (B) shall not be for an amount greater than sixty per cent of the fair value as determined by the appraisal and shall be repayable monthly within a period of five years."  
(Emphasis added)

The underscored portion of Section 1151.291, supra, constitutes the new portion added by the amendment which became effective June 21, 1965.

A review of comparable legislation indicates that in short term loans, those having a term of eighteen months to five years, there is usually no requirement for amortization of the principal, the statute only requiring the periodic payment of interest.

The statutes which provide lending authority for long term loans, those of twenty, twenty-five or thirty year duration, specifically require a rate of amortization which would only allow substantially equal payments over the period of the loan.

An example of this is found in subsection (E), Section 1151.291, Revised Code, which allows the granting of loans without amortization if the period of the loan is not more than five years and the amount of the loan does not exceed fifty per cent of the fair value of the real estate, but provides that on a twenty-five year loan provision must be made to reduce the original principal of the loan not less than two per cent each six months.

Section 1151.291 (F), supra, provides for monthly payments but makes no provision that such payments shall be substantially equal nor does it provide for any specific rate of amortization over the five year period.

If it were the intent of the legislature to require that the repayment of loans granted under Section 1151.291, supra, be made in installments which are substantially equal or that said loans be amortized in a specific manner, they could have readily incorporated such a condition into the amendment. However, there is no indication of a legislative intent that the loans be amortized in any certain manner.

Therefore it is my opinion and you are advised that when a building and loan association makes a five year loan secured by vacant building lots, the provisions of Section 1151.291, Revised Code, which authorize the making of such loan, do not require a specific rate of amortization of such loan during the entire five year period, nor do such provisions require that monthly payments on such loan be substantially equal in amount.