



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN**

**GERALD C. MANN  
ATTORNEY GENERAL**

**Honorable Jno. Q. McAdams  
Commissioner  
Department of Banking  
Austin, Texas**

**Dear Mr. McAdams:**

**Attention: Mr. H. A. Jamison,  
Deputy Banking Commissioner.**

**Opinion No. 0-5491**

**Re: Whether or not a foreign  
building and loan association  
authorized to do business in  
this State is required to com-  
ply with all of the building  
and loan laws of this State.**

**Your request for an opinion upon the above-  
captioned subject matter is as follows:**

**\*The Farm & Home Savings & Loan Association  
is a foreign association within the meaning of  
Section 58 of the building and loan laws and the  
association is regularly examined by representa-  
tives of this department, and it is in connection  
with a recent examination of the association that  
we desire information as to the jurisdiction and  
obligations of this office pertaining to the build-  
ing and loan laws proper and compliance therewith  
by subject corporation.**

**\*Your attention therefore is directed to Sec-  
tions 58 through 60, all of which have to do with  
the operation of a foreign building and loan asso-  
ciation in this state. We should like specific ad-  
vice as to whether or not the association is obli-  
gated to comply with all of the building and loan  
laws of this state incident to their over-all oper-  
ation or does it follow that said association is  
only obligated to comply with the building and loan  
laws of this state insofar as making of loans with-  
in the state and the selling of stock within the  
state is concerned.**

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"As a specific case in point, you are advised that the directors of subject corporation are not qualified to serve as such using the basis of qualification set out in Section 33 of our building and loan laws but said directors are eligible to serve as such under the Missouri laws which is the state of the institution's legal domicile. Likewise, Section 33 of the building and loan laws of this state contain certain limitations as to investments that are not the same as limitations set out in the investment section in the Missouri law, and this of course presents a more serious aspect to our inquiry than does the directors qualification question.

"As indicated above, the point on which we desire your advices is whether or not compliance with the laws of Texas is limited to the business which the association does in Texas in connection with the making of loans or the selling of stock or does the statute contemplate that a foreign association in respect to its over-all operation must comply with the building and loan laws of this state."

The following provisions of the Building and Loan Associations Act are thought to be pertinent to your inquiry:

"Should the Banking Commissioner of Texas find upon examination that such foreign association does not conduct its business in accordance with law, \* \* \* it (he) may revoke the certificate of authority granting such foreign association to do business in this State, \* \* \*". --Art. 831a-34, Vernon's Civ. Stat.

"No foreign building and loan association shall be permitted to do business in this State unless all the provisions of this Act are fully complied with.  
\* \* \*"

"All of the rules and regulations and all the terms and conditions herein contained applicable to the operation of domestic companies, are hereby expressly made applicable to foreign companies under this Act. Any such association violating any of the provisions of this Act, or failing to comply with any

of its provisions, shall be subject to a fine of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, such fine to be recovered by an action in the name of the State of Texas in any court of competent jurisdiction and, upon the collection thereof, the same shall be paid into the State Treasury." — Art. 881a-66.

It is fundamental law, of course, that no foreign corporation has a right as of course to carry on its corporate business in Texas without a permit to do so. Corollary to this is the further principle that the State may impose upon such foreign corporation whatever conditions it sees fit to impose as a condition to its being permitted to do business in Texas. No question of constitutional right or privilege comes into the case, because as stated, no foreign corporation has any right or privilege whatsoever to come into the State except upon the terms imposed by the State.

Reading the provisions of our Building and Loan Associations Act in respect to foreign corporations above quoted, and considering them in connection with the entire Act of which they constitute a part, we are clearly of the opinion that a foreign corporation holding a permit to carry on its business in Texas must conduct its operations in all substantial respects in accordance with the laws of Texas, and by the term "its operations" we mean to include the operations of the corporate business in the state of its domicile as well as those in Texas.

Perhaps a distinction is to be made between the company's operations and its organization. There is just ground for this distinction. Thus, it is easy to be seen that a failure of the corporation with respect to a matter like the legal qualifications for a directorship -- a matter concerning its organic structure -- might be of little or no consequence to this State, whereas a failure of the corporation to comply with the requirements of the Texas statutes with respect to its investments, withdrawals, and the like matters of operation, would be of the very essence of our statutes.

Trusting that what we have said will be a sufficient answer to your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS  
By

*Casey Speer*  
Assistant

*Howe Sells*  
US-LR

APPROVED  
OPINION  
COMMITTEE