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FILE NO. S-457

SAVINGS AND LOAN:
Whether a "facility" of a
Savings and Loan Association
may accept a loan application
for transmittal to the associa-
tion's home office.

Honorable John J. Lanigan
Commissioner of Savings and Loan Associations
607 East Adams Street
Springfield, Illinois 62706

Dear Commissioner Lanigan:

I have your recent letter in which you state:

"During the spring session of the Illinois
Legislature, [Senate Bill 1144] was passed
into law by the General Assembly, and was
signed by the Governor on September 20, 1971.

I am in the process of preparing regulations
to implement the subject legislation; and
during the course of many public hearings on
same, a significant controversy has developed
with respect to what may be done at a facility.

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Specifically, I am in doubt as to whether a loan application may be accepted at a facility, even though it will be transmitted to the home office for review and approval.

The simple question is: May a facility physically accept a loan application and transmit it to the home office?"

Senate Bill 1144, which became Public Act 77-1584, amends Section 1-9 of the Illinois Savings and Loan Act to read as follows:

"Section 1-9. Powers Not to be Exercised.

(a) No association to which this Act applies shall accept or carry any demand, commercial or checking account.

(b) No association shall establish branches or offices at which savings or investments are regularly received or loans approved unless and to the geographical extent branch powers and offices are granted to state banks under the "Illinois Banking Act", as amended, or as it may be amended or supplemented, except the Commissioner may adopt regulations which provide for the establishment of a facility, as defined by the Commissioner, in the case of a supervisory merger, or a single facility in the case of a relocation.

(c) No business shall be done at a facility except receiving deposits, cashing and issuing checks, drafts and money orders, changing money and receiving payments on existing indebtedness." Ill. Rev. Stat. 1971, ch. 32, par. 709.

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The underlined portion of the above quoted statute was added by Public Act 77-1584.

In People ex rel. Cadell v. Board of Police and Fire Commissioners of City of East St. Louis, 345 Ill. App. 415, the court stated:

"The courts of this state have repeatedly held that a court cannot restrict or enlarge the meaning of an unambiguous statute. People ex rel. Nelson Bros. Storage & Furniture Co., v. Fisher, 373 Ill. 228, at page 234, 25 N.E. 2d 785; Roth v. Kaptowsky, 401 Ill. 424, 82 N.E. 2d 661, 7 A.L.R. 2d 674; Smith v. Board of Education, 405 Ill. 143, 144, 89 N.E. 2d 893. The courts have also held that: 'It is a fundamental principle of statutory construction that the enumeration of certain things in a statute implies the exclusion of all other things' and 'As a corollary of this rule it has been held that other exceptions than those designated by statute cannot be read into it under the rule *expressio unius exclusio alterius*.' In re Estate of Tilliski, 390 Ill. 273, at page 283, 61 N.E. 2d 24, 28."

See also 34 I.L.P., Statutes, §119, and cases cited therein.

In the statute under consideration, it is stated that "No business shall be done at a facility except receiving deposits, cashing and issuing checks, drafts and money orders, changing money and receiving payments on existing indebtedness." Unless

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it can be said that the acceptance of a loan application does not constitute the doing of "business", the doctrine, expressio unius exclusio alterius, will operate to prohibit the taking of a loan application in a facility since it is not one of the activities specifically permitted to be carried on in a facility.

In considering whether the physical acceptance of a loan application and its transmittal to the home office is part of the conduct of "business" in a facility, it is useful to consider the overall procedure of extension of credit rather than merely confining oneself to a single moment in time and place where an application is received or a loan is formally approved or the proceeds disbursed. The process of lending and borrowing includes solicitation, application, investigation, taking of security, approval and disbursement together with servicing and collection. To the individual borrower, the location of the office of the lender from which the check representing the loan proceeds is mailed or otherwise delivered is immaterial; the factor that gives the lender a competitive advantage is convenience in making the loan application. To

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say that the receiving of loan applications is not part of the "business" of a savings and loan association is to put an excessively strained interpretation on the word "business".

As stated in People ex rel. Cadell v. Board of Police and Fire Commissioners, supra, a court cannot restrict or enlarge the meaning of an unambiguous statute. It is my opinion that Public Act 77-1584 is clear and unambiguous in specifying what activities may be carried on at a facility and that since the acceptance of loan applications is not one of those specified activities, a facility may not accept a loan application for transmittal to its home office.

Very truly yours,

A T T O R N E Y G E N E R A L