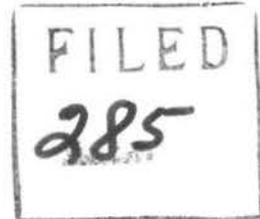


November 14, 1973

OPINION LETTER NO. 285
Answer by Letter - C. B. Blackmar

Mr. Peter W. Salsich, Jr.
Chairman, Missouri Housing
Development Commission
3642 Lindell Boulevard
St. Louis, Missouri 63108



Dear Mr. Salsich:

This is to acknowledge your opinion request of August 21, 1973, in which you inquire about the validity of the appropriation of \$1,000,000 by the Missouri General Assembly in CCSHB No. 4 of the 77th General Assembly, as follows:

"Section 4.216. To the Missouri Housing
Development Commission

For initial funding of the Missouri Housing
Development Commission Mortgage Insurance
Reserve Fund

From the Revenue Sharing Trust Fund . . \$1,000,000"

We understand that the Commission operates by selling bonds to the public and using the proceeds to make loans "to finance the building or rehabilitation of residential housing designed and planned to be available at low and moderate rentals or to be sold to low and moderate-income families. . . ."; that the loans made by the Commission are secured by mortgages or deeds of trust on the real estate involved; and that some of these loans may be insured against loss by federal authority, but that it is contemplated making loans which are not so insured.

The basic plan of Chapter 215 of the Missouri Revised Statutes was considered in our Opinion No. 140, issued July 6, 1971, a copy of which we enclose. That opinion held that the purpose

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of providing housing for low and moderate income families was a proper public purpose, and that the statutory plan did not constitute an invalid grant for a private purpose, nor did it constitute the pledging of public credit in aid of private individuals, so as to violate Article III, Sections 38(a), 39(1) or 39(2) of the Missouri Constitution.

We understand that the Commission now proposes to establish an "insurance fund" of which the initial component will be the legislative appropriation described above, and that the fund will be supplemented by charges against borrowers. We assume that this fund will apply only to mortgages and deeds of trust which are not otherwise fully insured by other agencies. This fund may constitute the entire "insurance" for a particular loan, or may supplement other insurance. The proceeds of the fund will be under the control of the Commission, and we presume that they will be invested. The ultimate beneficiaries of the "insurance" will be the bondholders, who will receive additional assurance that their obligations will be discharged as they come due.

We believe that the establishment and operation of the fund in this manner is valid and not in violation of the Missouri Constitution, for the same reasons that are set out in Opinion No. 140 as to the basic statutory plan. As Opinion No. 140 shows, the Commission's commitments to the bondholders are not general obligations of the state and do not constitute the lending of the credit of the state. The Commission is confined to its own resources, and the legislature may properly supply it with funds for the statutory purposes. We consider that the establishment of the "insurance" fund as described above is an appropriate means for the exercise by the Commission of its statutory powers, and that it is not necessary that the precise plan be set out in detail in the statutes.

Our conclusion seems consistent with statements in the opinion of the Supreme Judicial Court of Massachusetts in Massachusetts Housing Finance Agency v. New England National Bank, 249 N.E.2d 599 (Mass. 1969). We do not consider it significant that statutes of some other state contain detailed findings and recitals which are not present in the Missouri statutes. It is not the custom of the General Assembly to include findings and recitals. The public purpose of a statute is to be gleaned from its face, and, as Opinion No. 140 demonstrates, we consider that Chapter 215 is satisfactory from the public purpose standpoint.

It is therefore our view that an appropriation to the Missouri Housing Development Corporation to establish a fund for

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the "insurance" of loans made by it pursuant to Chapter 215 of the Missouri Revised Statutes is valid, and not in violation of Article III, Sections 38(a), 39(1), 39(2), or other provisions of the Missouri Constitution.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 140
7/6/71, Salsich