

CREDIT UNIONS - Powers of Commissioner of Securities.

May 25, 1937.

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Honorable Dwight H. Brown,
Secretary of State,
Capitol Building,
Jefferson City, Missouri.

Dear Sir:

We have your request of April 14, 1937, for an opinion relative to the construction of Section 5084 Revised Statutes of Missouri, 1929, relating to Credit Unions, which request contains the following questions:

"FIRST: Can the agent of the Commissioner of Securities be an employee of the Securities Department?

"SECOND: In the event that such agent is not an employee of the Securities Department, in what way shall this agent be compensated, also in that regard how are the other general expenses of the liquidation to be paid; such as court costs in the event suit is necessary in order to collect funds due the Credit Union?

"THIRD: In the case of Credit Unions whose total assets are so small as to be entirely used up by the liquidation or are not sufficient to even cover such cost, what action can this department take other than liquidation?"

In answer to the first question, the agent of the Commissioner of Securities may or may not be an employee of the office. Section 5084 R. S. Mo. 1929, merely provides that the Commissioner shall cause one of his agents to take possession of the business. This agent may be appointed at any time, but since the statutes are silent as to the payment of this agent's compensation, the agent, if not an employee of the department, must look to other sources for his compensation.

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As to the second question, it would appear that in the event the Commissioner applies for receivership and the Commissioner or his agent is appointed receiver, the compensation for the receiver's services could be paid from the assets of the Credit Union. This will also take care of the question of court costs on any suits instituted by the receiver in order to collect funds due the Credit Union.

As to the third question, it is entirely a matter of discretion with the Commissioner under Section 5084 as to whether or not the Credit Union is permitted to resume business, or its affairs are finally liquidated. It would appear that small, insolvent unions would of necessity require liquidation.

It is, therefore, the opinion of this office that the Commissioner of Securities may appoint an agent, who may or may not be an employee of his office, to take charge of Credit Unions; that if necessary he may apply to the circuit court for an order appointing him or his agent receiver, and may manage the affairs of the Union under such receivership, in accordance with general receivership law.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
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