

**OPINION
60-34**

June 3, 1960 (OPINION)

BUILDING AND LOAN ASSOCIATION

RE: Operation of - Deposit Accounts; Restrictions

This is in reply to your letter in which you state that several of the state chartered savings and loan associations are accepting savings from clients under the guise of Christmas Savings Clubs.

You go on to state that these are nothing more than a regular savings account, subject to withdrawals on demand of the persons joining the club. You then state that in your opinion this form of savings is contrary to the provisions of 7-0406, N.D.R.C. of 1943, which reads as follows:

DEPOSIT ACCOUNTS; RESTRICTIONS. No association shall carry or have upon its books at any time any demand, commercial, or checking account, or any credit to be withdrawn upon the presentation of any negotiable check or draft, and no association shall receive any savings account or any sum of money which does not represent a payment made upon the share of the association." (Underscoring supplied)

You then ask for an opinion whether or not this procedure is permitted under the North Dakota laws. You further ask for the construction of the word "deposits" as found in section 7-0202 of the N.D.R.C. of 1943.

A building and loan association or savings and loan association is controlled and governed by statute.

Accepting the definition of savings clubs as stated by you to be correct, it would appear that the statute referred to above prohibits a savings and loan association or a building and loan association from engaging in such practice. The statute cited above, particularly the underlined portion, is clear and is not subject to any construction other than that which is implied from the true and ordinary meaning of the words and phrases used therein.

The term "deposit" used in subparagraph 4 of section 7-0202 refers to the payment for shares, permitting deposits for payment of shares, and does not mean to permit the building and loan association or savings and loan association to receive deposits as it is ordinarily understood in the banking business. The term "deposited" must be construed in light of the subject matter of 7-0202 and cannot be construed to mean that a building and loan association or savings and loan association may receive deposits as is understood in the banking business.

It is therefore our opinion from the clear import of the language that building and loan associations or savings and loan associations may not engage in the practice of carrying on Christmas Savings Clubs or other savings clubs where such payments or deposits are not to be applied or used to purchase shares of the association.

LESLIE R. BURGUM
Attorney General