December 7, 1953
Letter Opinion
No. 53-157-L

Mr. D. O. Saunders
State Banking Department
State House
Phoenix, Arizona

Re: First Loan & Thrift Corporation

Dear Mr. Saunders:

In compliance with your request concerning the phraseology of the proposed "Thrift Money Order" and whether or not this corporation's proposed coupons would conflict in any way with that of our established banks and their bank money order system, embodied herein is our opinion.

It is evident from the data enclosed in your request that this corporation is intending to operate as a small loan business. Assuming this to be the fact, Section 51-806 of Arizona Code Annotated 1939 must be consulted:

> "51-806. Restrictions on name.--No license shall be issued to a person doing business under a trade name including the words 'provident' or 'remedial'; nor shall a license issue to a corporation having as part of its title the words 'provident' or 'remedial' unless it is a domestic corporation and files with its application for license an authenticated copy of a resolution of the directors and stockholders or a copy of its certificate of incorporation, providing that such corporation shall not declare or pay dividends to its stockholders in excess of seven (7) per cent upon the book value thereof, in any year."

The proposed corporation does not appear to violate this statute by the use of the words "Thrift Money Order." However, it is also necessary to consult Section 51-814 of Arizona Code Annotated 1939 in regard to advertisements.

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> "51-814. Advertisements to be signed--Inducements prohibited.--If a money-lender shall publish or distribute any advertisement to which the name and address of such licensee is not attached; or if an advertisement is published for, or circular issued by licensees in which the terms of charges for loans are described as 'low rates,' 'cheap money,' or of like effect, or in which any material statement is false or deceptive, with regard to the bona fide charges, or conditions respecting the terms upon which such loans or transactions are to be made; or shall offer any gift, premium, or free use of money for a preliminary period, as an inducement to borrowers, the licensing official shall notify such money-lender to desist, and upon a subsequent violation he may revoke the license." (Emphasis supplied)

Since there has been no actual advertising to our knowledge, it would be impossible to determine whether or not this section has been violated, although there is some indication from the enclosed data that the phrase "Thrift Money Order" conceivably could be deceptive to the public if misused in advertising the plan.

The form of the coupon to be issued by this corporation and its subsequent exchange, as outlined by the corporation, support the belief that it is a negotiable instrument. As such, it is in the nature of a check and apparently complies with the Arizona negotiable instrument act in that respect.

Without further information, the only additional advice that would be pertinent at this time is that this corporation will probably be classified as a small loan business. If so, it must comply with the Arizona statutes governing such businesses.

Yours very truly,

JOHN R. ELLIOTT
Assistant to the
Attorney General

JRE:DP

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