

**Building and Loan Associations—Reserve Funds—Contingent Funds—Funds—Expenses.**

Building and loan associations have no power to create reserve funds under Montana statutes governing same.

November 13, 1928.

G. M. Robertson, Esq.,  
Chief Examiner,  
Department of Banking,  
Helena, Montana.

My dear Mr. Robertson:

You have requested my opinion whether it is legal for building and loan associations to create a "reserve fund" and you state that one such association had created such a fund to which it had diverted certain of its profits.

Building and loan associations are subject to the control of chapter 57, laws of 1927. You call attention to section 19 as the section under which it is contended that a reserve fund may be created. There is no express provision in the statute authorizing such a fund.

Section 18 provides for a contingent fund to pay losses. Section 19 provides for the "payment of expenses and losses—dividends." The second paragraph of that section reads in part:

"The portion of earnings provided in the preceding section shall be reserved annually or semi-annually for the payment of contingent losses."

Subdivision 17, section 12, enumerating the powers and duties of such associations includes the following:

"To make such annual or semi-annual distribution of all the earnings after payment of expenses and setting aside a sum for the contingent fund as herein provided."

All of these provisions relate to the contingent fund and no other fund is mentioned or suggested. Nor does the act indicate a purpose for any other fund; hence in my opinion, there is no authority under the act for a reserve fund.

Very truly yours,

L. A. FOOT,  
Attorney General.