

Building and Loan Associations—Withdrawals—Deductions—Losses.

The losses which are authorized to be deducted when a member withdraws from a building and loan association are his share of the losses which have actually occurred at the time but which have not been paid out of the contingent fund because it became exhausted by the payment of prior losses therefrom.

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Attorneys at Law,
Great Falls, Montana.

November 10, 1931.

Gentlemen:

I have your request for an opinion concerning the proposed by-laws for building and loan associations.

With reference to the provision of subdivision 8 of section 12 of chapter 163 of the laws of 1929 providing for withdrawals of stock wherein it is stated that a withdrawing member is entitled to receive all dues paid in and all dividends declared less interest, if any, as provided in subsection 7, less a reasonable membership fee not exceeding 2% of the par value of each share of stock and "less a pro rata share of all losses, if any, which have occurred," will say that, in my opinion, the above quoted words have reference to losses which at the time of withdrawal have actually occurred and which have not been paid out of the contingent fund because the said fund was exhausted. This seems clear when section 19 of chapter 57 of the laws of 1927 is taken into consideration. Said section provides that "further losses," should there be any,

shall be assessed against the stock credits of the members of the association. The phrase "further losses" appears plainly to mean those losses which are in excess of those which exhausted the contingent fund for section 18 of the same chapter provides that all losses shall be paid out of the contingent fund until the same is exhausted.

Section 19, above mentioned, was amended by chapter 167 of the laws of 1931 but it is again therein provided that losses in excess of the contingent fund and reserve fund shall be assessed pro rata among the stockholders of the association. It seems reasonably clear to me that the deduction authorized by said subdivision 8 from the sum to be paid a withdrawing member on account of his pro rata share of all losses, if any, which have occurred, means his share of the losses which have actually occurred but which have not been paid out of the contingent fund because prior losses had exhausted the same for the right to assess the credits of the stockholders with losses only arises after the contingent fund has been exhausted by the payment of prior losses.

Very truly yours,

L. A. FOOT,
Attorney General.