

1 House BILL NO. 77
2 INTRODUCED BY Kraalen

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 7-113,
5 R.C.M. 1947, TO PERMIT STATE CHARTERED BUILDING AND LOAN
6 ASSOCIATIONS TO CHARGE AN AMOUNT NOT TO EXCEED FIVE DOLLARS
7 (\$5) AS LATE PAYMENT PENALTY ON ANY PAYMENT MORE THAN
8 FIFTEEN (15) DAYS LATE; TO CHARGE INTEREST ON THE LATE
9 PAYMENT AT A RATE NOT TO EXCEED TWELVE PERCENT (12%); AND TO
10 DEDUCT THESE LATE PAYMENT CHARGES FROM ANY PAYMENT."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 7-113, R.C.M. 1947, is amended to
14 read as follows:

15 "7-113. Powers and duties of building and loan
16 associations. Every building and loan association is a
17 creature of the law having certain powers and duties of a
18 natural person and as such has power:

- 19 (1) Of continual succession, by its corporate name;
- 20 (2) To sue and be sued, in any court;
- 21 (3) To make and use a common seal and alter same at
22 pleasure;
- 23 (4) To appoint such officers or agents as the business
24 of the corporation may require, and to allow them suitable
25 compensation;

1 (5) To enter into any obligations or contracts
2 essential to the transaction of its ordinary affairs, or for
3 the purposes of the corporation.

4 (6) Such associations shall have power to issue stock
5 to members on such terms and conditions as the constitution
6 and bylaws may provide, but no association shall issue
7 preferred stock.

8 (7) To assess and collect from members dues on stock
9 and interest on loans at the times and in the amount as
10 provided for in the constitution and bylaws. The combined
11 total of the amounts paid to an association for interest,
12 commission, bonus, discount and other similar charges, less
13 a proper deduction for all dividends, refunds, and cash
14 credits of all kinds, shall not create an actual net cost to
15 the borrower in excess of the maximum lawful contract rate
16 of interest in this state. Interest at a rate not exceeding
17 ~~the--maximum--lawful--contract--rate~~ twelve percent (12%) may
18 also be charged on unpaid interest, principal payments, or
19 both from the time such ~~interest~~ payments are due.
20 Interest, not exceeding the lawful contract rate, may also
21 be charged and collected on delinquent stock payments when
22 such unpaid payments are credited with dividends. Said
23 interest shall in no event be at a rate exceeding the rate
24 ~~per-centum~~ percent of the dividend declared on the same
25 unpaid stock payments. No association shall charge or

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1 collect from any stockholder, member or borrower, any fines,
 2 premiums, or penalties of any kind whatsoever; except that
 3 a late payment penalty not to exceed five dollars (\$5) may
 4 be charged for payments more than fifteen (15) days late.
 5 Any officer, agent or employee of any association collecting
 6 or attempting to collect any penalty, fine or premium of any
 7 kind whatsoever except the late payment penalty or any
 8 interest at a rate higher than provided in the note or other
 9 evidence of debt and or in this act, shall be guilty of a
 10 misdemeanor.

11 (8) To permit members to withdraw all or part of their
 12 stock credits at such times and upon such terms, as the
 13 constitution and bylaws may provide; provided that no charge
 14 or fee, except as herein provided, shall be made against any
 15 member who withdraws his stock, after having given thirty
 16 (30) days' notice of such withdrawal; provided, also, that
 17 no fine of any description shall be made upon the par value
 18 of such stock or upon the declared dividends because of such
 19 withdrawal. Any member who withdraws his stock or whose
 20 stock is matured, shall be entitled to receive all dues paid
 21 in and all dividends declared less interest, if any, as
 22 provided in subsection (7), less a reasonable membership fee
 23 not exceeding two ~~(2)~~-per-centum percent (2%) of the par
 24 value of each share of stock and less a prorata share of all
 25 losses, if any, which have occurred, and no other fine or

1 assessments shall be made against such stock. Applications
 2 for withdrawal are to be registered on the books of the
 3 association in the order received and one-half of all cash
 4 collections, not required to meet outstanding contracts,
 5 must be used for the payment of the matured stock and of the
 6 withdrawals in the order registered; provided, however, that
 7 the other half of such collections each month may be used
 8 for the payment of withdrawals other than in the order
 9 registered, but no member shall receive more than one
 10 hundred dollars (\$100.00) in any one month other than by
 11 payment of an application for withdrawal in the order
 12 registered. The term "outstanding contracts" includes the
 13 costs and expenses of operation, completion of loans,
 14 payment of taxes and assessments and necessary remodeling
 15 and repairs on properties owned by or mortgaged to the
 16 association, repayment of all borrowed money and all fixed
 17 charges.

18 (9) To cancel shares of stock upon which all credits
 19 have been withdrawn, or upon which loans have been canceled
 20 or stock upon which no payments have been made for a period
 21 of six (6) months, by returning to the stockholders all
 22 credits, if any, and reissue such shares as new stock.

23 (10) To issue stock to minors and permit the same to be
 24 withdrawn as other stock, and the receipt of such minor
 25 shall be a valid acquittance if his rights have been fully

1 secured to him.

2 (11) To acquire, hold, encumber and convey such real
3 estate and personal property as may be necessary for the
4 transaction of its business, or necessary to enforce or
5 protect its securities. Provided, not over ten ~~(10)~~-per-cent
6 percent (10%) of the assets of any association shall be
7 invested in home office buildings, furniture and fixtures.
8 Also ownership of other real property acquired in any manner
9 or for any purpose shall not be held for more than five (5)
10 years, except by permission of the superintendent of banks.

11 (12) To borrow money, only when necessary not exceeding
12 twenty ~~(20)~~--per--centum percent (20%) of its assets except
13 when borrowing from the federal home loan bank as
14 hereinafter provided, and issue its promissory note
15 therefor; provided, that the assets and securities of an
16 association shall not be pledged or hypothecated to secure
17 its borrowed money or for any other purpose, without the
18 consent of the superintendent of banks. However, if the
19 superintendent of banks determines that it is advisable to
20 pledge assets in order that funds may be secured he may
21 authorize such pledging or hypothecation; but in no event
22 shall the margin of security pledged exceed twenty-five ~~(25)~~
23 per--centum percent (25%) of the funds so borrowed except
24 when funds are borrowed from the federal home loan bank; an
25 association may borrow money from the federal home loan bank

1 upon such terms as may now or hereafter be required by the
2 federal home loan bank, and to execute the promissory note
3 of the corporation therefor, and to pledge or hypothecate
4 any of the assets of the corporation to secure the repayment
5 of said loan, with interest, in accordance with the Federal
6 Home Loan Bank Act, and the rules and regulations adopted or
7 to be adopted thereunder.

8 (13) To make loans to members on the security of the
9 shares of the association, and also on their notes secured
10 by first mortgages on improved real estate, including
11 suburban homes, but not on farm lands or mining property,
12 for not to exceed seventy-five ~~(75)~~-per--centum percent (75%)
13 of the actual value of such real estate, and upon such terms
14 and conditions as may be provided in the constitution and
15 bylaws; provided, however, that in all cases where the
16 promissory note, or other written evidence of the loan made
17 by any building and loan association required the payment of
18 said loan, or total aggregate sum of principal and interest
19 in periodic installments, said promissory note, or other
20 written evidence of debt shall specifically state the actual
21 interest rate charged the borrower upon the unpaid balance
22 of the principal amount at each periodic payment; provided,
23 further, that when the note or other evidence of debt does
24 not require the payment of said loan in periodic
25 installments, the note or other evidence of debt shall

1 specifically state the actual rate of interest to be charged
2 the borrower:

3 Provided, however, that in all notes and mortgages now
4 in force which do not specify the actual rate of interest
5 charged the borrower upon the unpaid balance of the
6 principal at each periodic payment, all payments made on the
7 said notes must be distributed by crediting the same, first,
8 upon the interest on the unpaid balance of the loan at the
9 rate actually earned under the terms of the notes and
10 mortgages, and the remainder upon the principal of the loan,
11 and no charges or deductions from any of said periodic
12 payments shall be permitted by any such association not
13 specifically provided for in said promissory note or other
14 evidence of such loan except the late payment penalty and
15 the additional interest charge on late payments.

16 (14) To cancel such loans and release the securities on
17 such terms as the board of directors may provide. But any
18 borrower may have his loan canceled upon the following
19 terms, to wit:

20 By paying all the interest up to date of cancellation
21 and the sum actually borrowed, less payments on principal,
22 dues paid in and the dividends credited.

23 (15) To invest the money of the association in:

24 (a) The bonds and securities of the United States,
25 bonds and other obligations guaranteed as to interest and

1 principal by the United States, and the stocks, bonds,
2 debentures and other securities and obligations of any
3 federal home loan bank created under the laws of the United
4 States;

5 (b) The bonds and warrants of any state and of any
6 county, city or school district of the state of Montana;

7 (c) The obligations of the federal savings and loan
8 insurance corporation lawfully issued pursuant to Title IV
9 of the National Housing Act;

10 (d) Improved real estate which has been sold under
11 contract, including suburban homes, but not including farm
12 lands or mining property; provided, however, that the total
13 amount remaining so invested, excluding real estate
14 otherwise acquired, shall at no time exceed fifteen ~~(15)~~-per
15 cent percent (15%) of its assets; and provided further, that
16 in no specific case shall the amount so invested exceed
17 eighty-five ~~(85)~~--per--cent percent (85%) of the price
18 stipulated in the contract of sale or eighty-five ~~(85)~~--per
19 cent percent (85%) of the value of the property so
20 purchased, whichever is the lesser;

21 (e) Not to exceed ten ~~(10)~~-per-cent percent (10%) of
22 the association assets in other bonds and securities.

23 (16) To loan money to other building and loan
24 associations;

25 (17) To make such semiannual distribution of all the

1 earnings after payment of expenses and setting aside a sum
2 for the contingent funds as herein provided;

3 (18) To amend its articles of incorporation by changing
4 the name, place of business, the number of directors; to
5 increase or decrease the capital stock and provide for its
6 own continual succession by a majority vote of its
7 directors; provided that no such amendments shall be
8 effected until first approved by the superintendent of
9 banks;

10 (19) To dissolve the corporation in accordance with the
11 provisions of this chapter;

12 (20) To provide by constitution and bylaws, adopted or
13 amended, by its board of directors for the proper exercise
14 of the powers herein granted and the conduct and management
15 of its affairs;

16 (21) All such other powers as are necessary and proper
17 to enable such corporation to carry out the purpose of its
18 organization.

19 (22) Any two (2) or more building and loan
20 associations, by and with the consent and approval of the
21 superintendent of banks, may consolidate and unite and
22 become incorporated in one (1) body, with or without any
23 dissolution or division of the funds or property of any such
24 association, or any such association may transfer its
25 engagements, funds and property to any like association upon

1 such terms as may be agreed upon by a majority vote of the
2 respective board of directors, and ratified by a two-thirds
3 (2/3) vote of the shares present and voting in person or by
4 proxy at a special meeting or meetings of the stockholders
5 of the respective associations convened for that purpose,
6 upon notice given as provided by law, said notice to state
7 the object of the meeting. No such transfer shall prejudice
8 any right of any creditor of such association."

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 77

INTRODUCED BY KVAALEN

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 7-113, R.C.M. 1947, TO PERMIT STATE CHARTERED BUILDING AND LOAN ASSOCIATIONS TO CHARGE AN AMOUNT NOT TO EXCEED ~~FIVE-DOLLARS~~ ~~465~~ FOUR PERCENT (4%) OF THE PAYMENT DUE AS LATE PAYMENT PENALTY ON ANY PAYMENT MORE THAN FIFTEEN (15) DAYS LATE; ~~TO CHARGE INTEREST ON THE LATE PAYMENT AT A RATE NOT TO EXCEED TWELVE--PERCENT--(12%)~~ AND TO ~~REDUCE~~ ADD THESE LATE PAYMENT CHARGES ~~FROM~~ TO ANY PAYMENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-113, R.C.M. 1947, is amended to read as follows:

"7-113. Powers and duties of building and loan associations. Every building and loan association is a creature of the law having certain powers and duties of a natural person and as such has power:

- (1) Of continual succession, by its corporate name;
- (2) To sue and be sued, in any court;
- (3) To make and use a common seal and alter same at pleasure;
- (4) To appoint such officers or agents as the business of the corporation may require, and to allow them suitable

compensation;

(5) To enter into any obligations or contracts essential to the transaction of its ordinary affairs, or for the purposes of the corporation.

(6) Such associations shall have power to issue stock to members on such terms and conditions as the constitution and bylaws may provide, but no association shall issue preferred stock.

(7) To assess and collect from members dues on stock and interest on loans at the times and in the amount as provided for in the constitution and bylaws. The combined total of the amounts paid to an association for interest, commission, bonus, discount and other similar charges, less a proper deduction for all dividends, refunds, and cash credits of all kinds, shall not create an actual net cost to the borrower in excess of the maximum lawful contract rate of interest in this state. ~~Interest~~ PENALTY at a rate not exceeding the maximum lawful contract rate ~~twelve--percent~~ ~~12%~~ FOUR PERCENT (4%) OF THE PAYMENT DUE may also be charged on ~~unpaid interest, principal payments, or both~~ ANY PAYMENT MORE THAN FIFTEEN (15) DAYS LATE from the time such ~~interest~~ payments are due. Interest, not exceeding the lawful contract rate, may also be charged and collected on delinquent stock payments when such unpaid payments are credited with dividends. Said interest shall in no event be

1 at a rate exceeding the rate ~~per--centum~~ percent of the
 2 dividend declared on the same unpaid stock payments. ~~No~~
 3 ~~association shall charge or collect from any stockholder,~~
 4 ~~member or borrower, any fines, premiums, or penalties of any~~
 5 ~~kind whatsoever, except that a late payment penalty not to~~
 6 ~~exceed five dollars (\$5) may be charged for payments more~~
 7 ~~than fifteen (15) days late.~~ Any officer, agent or employee
 8 of any association collecting or attempting to collect any
 9 penalty, fine or premium of any kind whatsoever except the
 10 late payment penalty or any interest at a rate higher than
 11 provided in the note or other evidence of debt ~~and~~ or in
 12 this act, shall be guilty of a misdemeanor.

13 (8) To permit members to withdraw all or part of their
 14 stock credits at such times and upon such terms, as the
 15 constitution and bylaws may provide; provided that no charge
 16 or fee, except as herein provided, shall be made against any
 17 member who withdraws his stock, after having given thirty
 18 (30) days' notice of such withdrawal; provided, also, that
 19 no fine of any description shall be made upon the par value
 20 of such stock or upon the declared dividends because of such
 21 withdrawal. Any member who withdraws his stock or whose
 22 stock is matured, shall be entitled to receive all dues paid
 23 in and all dividends declared less interest, if any, as
 24 provided in subsection (7), less a reasonable membership fee
 25 not exceeding two ~~(2) per centum~~ percent (2%) of the par

1 value of each share of stock and less a prorata share of all
 2 losses, if any, which have occurred, and no other fine or
 3 assessments shall be made against such stock. Applications
 4 for withdrawal are to be registered on the books of the
 5 association in the order received and one-half of all cash
 6 collections, not required to meet outstanding contracts,
 7 must be used for the payment of the matured stock and of the
 8 withdrawals in the order registered; provided, however, that
 9 the other half of such collections each month may be used
 10 for the payment of withdrawals other than in the order
 11 registered, but no member shall receive more than one
 12 hundred dollars (\$100.00) in any one month other than by
 13 payment of an application for withdrawal in the order
 14 registered. The term "outstanding contracts" includes the
 15 costs and expenses of operation, completion of loans,
 16 payment of taxes and assessments and necessary remodeling
 17 and repairs on properties owned by or mortgaged to the
 18 association, repayment of all borrowed money and all fixed
 19 charges.

20 (9) To cancel shares of stock upon which all credits
 21 have been withdrawn, or upon which loans have been canceled
 22 or stock upon which no payments have been made for a period
 23 of six (6) months, by returning to the stockholders all
 24 credits, if any, and reissue such shares as new stock.

25 (10) To issue stock to minors and permit the same to be

1 withdrawn as other stock, and the receipt of such minor
2 shall be a valid acquittance if his rights have been fully
3 secured to him.

4 (11) To acquire, hold, encumber and convey such real
5 estate and personal property as may be necessary for the
6 transaction of its business, or necessary to enforce or
7 protect its securities. Provided, not over ten ~~(10)~~-per-cent
8 percent (10%) of the assets of any association shall be
9 invested in home office buildings, furniture and fixtures.
10 Also ownership of other real property acquired in any manner
11 or for any purpose shall not be held for more than five (5)
12 years, except by permission of the superintendent of banks.

13 (12) To borrow money, only when necessary not exceeding
14 twenty ~~(20)~~--per--centum percent (20%) of its assets except
15 when borrowing from the federal home loan bank as
16 hereinafter provided, and issue its promissory note
17 therefor; provided, that the assets and securities of an
18 association shall not be pledged or hypothecated to secure
19 its borrowed money or for any other purpose, without the
20 consent of the superintendent of banks. However, if the
21 superintendent of banks determines that it is advisable to
22 pledge assets in order that funds may be secured he may
23 authorize such pledging or hypothecation; but in no event
24 shall the margin of security pledged exceed twenty-five ~~(25)~~
25 per--centum percent (25%) of the funds so borrowed except

1 when funds are borrowed from the federal home loan bank; an
2 association may borrow money from the federal home loan bank
3 upon such terms as may now or hereafter be required by the
4 federal home loan bank, and to execute the promissory note
5 of the corporation therefor, and to pledge or hypothecate
6 any of the assets of the corporation to secure the repayment
7 of said loan, with interest, in accordance with the Federal
8 Home Loan Bank Act, and the rules and regulations adopted or
9 to be adopted thereunder.

10 (13) To make loans to members on the security of the
11 shares of the association, and also on their notes secured
12 by first mortgages on improved real estate, including
13 suburban homes, but not on farm lands or mining property,
14 for not to exceed seventy-five ~~(75)~~-per-centum percent (75%)
15 of the actual value of such real estate, and upon such terms
16 and conditions as may be provided in the constitution and
17 bylaws; provided, however, that in all cases where the
18 promissory note, or other written evidence of the loan made
19 by any building and loan association required the payment of
20 said loan, or total aggregate sum of principal and interest
21 in periodic installments, said promissory note, or other
22 written evidence of debt shall specifically state the actual
23 interest rate charged the borrower upon the unpaid balance
24 of the principal amount at each periodic payment; provided,
25 further, that when the note or other evidence of debt does

1 not require the payment of said loan in periodic
 2 installments, the note or other evidence of debt shall
 3 specifically state the actual rate of interest to be charged
 4 the borrower:

5 Provided, however, that in all notes and mortgages now
 6 in force which do not specify the actual rate of interest
 7 charged the borrower upon the unpaid balance of the
 8 principal at each periodic payment, all payments made on the
 9 said notes must be distributed by crediting the same, first,
 10 upon the interest on the unpaid balance of the loan at the
 11 rate actually earned under the terms of the notes and
 12 mortgages, and the remainder upon the principal of the loan,
 13 and no charges or deductions from any of said periodic
 14 payments shall be permitted by any such association not
 15 specifically provided for in said promissory note or other
 16 evidence of such loan except the late payment penalty and
 17 the-additional-interest-charge-on-late-payments.

18 (14) To cancel such loans and release the securities on
 19 such terms as the board of directors may provide. But any
 20 borrower may have his loan canceled upon the following
 21 terms, to wit:

22 By paying all the interest up to date of cancellation
 23 and the sum actually borrowed, less payments on principal,
 24 dues paid in and the dividends credited.

25 (15) To invest the money of the association in:

1 (a) The bonds and securities of the United States,
 2 bonds and other obligations guaranteed as to interest and
 3 principal by the United States, and the stocks, bonds,
 4 debentures and other securities and obligations of any
 5 federal home loan bank created under the laws of the United
 6 States;

7 (b) The bonds and warrants of any state and of any
 8 county, city or school district of the state of Montana;

9 (c) The obligations of the federal savings and loan
 10 insurance corporation lawfully issued pursuant to Title IV
 11 of the National Housing Act;

12 (d) Improved real estate which has been sold under
 13 contract, including suburban homes, but not including farm
 14 lands or mining property; provided, however, that the total
 15 amount remaining so invested, excluding real estate
 16 otherwise acquired, shall at no time exceed fifteen ~~(15)~~-per
 17 cent percent (15%) of its assets; and provided further, that
 18 in no specific case shall the amount so invested exceed
 19 eighty-five ~~(85)~~--per--cent percent (85%) of the price
 20 stipulated in the contract of sale or eighty-five ~~(85)~~--per
 21 cent percent (85%) of the value of the property so
 22 purchased, whichever is the lesser;

23 (e) Not to exceed ten ~~(10)~~-per-cent percent (10%) of
 24 the association assets in other bonds and securities.

25 (16) To loan money to other building and loan

1 associations;

2 (17) To make such semiannual distribution of all the
3 earnings after payment of expenses and setting aside a sum
4 for the contingent funds as herein provided;

5 (18) To amend its articles of incorporation by changing
6 the name, place of business, the number of directors; to
7 increase or decrease the capital stock and provide for its
8 own continual succession by a majority vote of its
9 directors; provided that no such amendments shall be
10 effected until first approved by the superintendent of
11 banks;

12 (19) To dissolve the corporation in accordance with the
13 provisions of this chapter;

14 (20) To provide by constitution and bylaws, adopted or
15 amended, by its board of directors for the proper exercise
16 of the powers herein granted and the conduct and management
17 of its affairs;

18 (21) All such other powers as are necessary and proper
19 to enable such corporation to carry out the purpose of its
20 organization.

21 (22) Any two (2) or more building and loan
22 associations, by and with the consent and approval of the
23 superintendent of banks, may consolidate and unite and
24 become incorporated in one (1) body, with or without any
25 dissolution or division of the funds or property of any suc

1 association, or any such association may transfer its
2 engagements, funds and property to any like association upon
3 such terms as may be agreed upon by a majority vote of the
4 respective board of directors, and ratified by a two-thirds
5 (2/3) vote of the shares present and voting in person or by
6 proxy at a special meeting or meetings of the stockholders
7 of the respective associations convened for that purpose,
8 upon notice given as provided by law, said notice to state
9 the object of the meeting. No such transfer shall prejudice
10 any right of any creditor of such association."

-End-

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compensation;

(5) To enter into any obligations or contracts essential to the transaction of its ordinary affairs, or for the purposes of the corporation.

(6) Such associations shall have power to issue stock to members on such terms and conditions as the constitution and bylaws may provide, but no association shall issue preferred stock.

(7) To assess and collect from members dues on stock and interest on loans at the times and in the amount as provided for in the constitution and bylaws. The combined total of the amounts paid to an association for interest, commission, bonus, discount and other similar charges, less a proper deduction for all dividends, refunds, and cash credits of all kinds, shall not create an actual net cost to the borrower in excess of the maximum lawful contract rate of interest in this state. ~~Interest PENALTY at a rate not exceeding the-maximum-lawful-contract--rate~~ ~~twelve--percent~~ ~~{12%}~~ FOUR PERCENT (4%) OF THE PAYMENT DUE may also be charged on ~~unpaid-interest-principal-payments, or both~~ ANY PAYMENT MORE THAN FIFTEEN (15) DAYS LATE from the time such ~~interest~~ payments are due. Interest, not exceeding the lawful contract rate, may also be charged and collected on delinquent stock payments when such unpaid payments are credited with dividends. Said interest shall in no event be

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 6 ~~exceed five dollars (\$5) may be charged for payments more~~
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 8 of any association collecting or attempting to collect any
 9 penalty, fine or premium of any kind whatsoever except the
 10 late payment penalty or any interest at a rate higher than
 11 provided in the note or other evidence of debt and or in
 12 this act, shall be guilty of a misdemeanor.

13 (8) To permit members to withdraw all or part of their
 14 stock credits at such times and upon such terms, as the
 15 constitution and bylaws may provide; provided that no charge
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 17 member who withdraws his stock, after having given thirty
 18 (30) days' notice of such withdrawal; provided, also, that
 19 no fine of any description shall be made upon the par value
 20 of such stock or upon the declared dividends because of such
 21 withdrawal. Any member who withdraws his stock or whose
 22 stock is matured, shall be entitled to receive all dues paid
 23 in and all dividends declared less interest, if any, as
 24 provided in subsection (7), less a reasonable membership fee
 25 not exceeding two ~~(2) per-centum~~ percent (2%) of the par

1 value of each share of stock and less a prorata share of all
 2 losses, if any, which have occurred, and no other fine or
 3 assessments shall be made against such stock. Applications
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 5 association in the order received and one-half of all cash
 6 collections, not required to meet outstanding contracts,
 7 must be used for the payment of the matured stock and of the
 8 withdrawals in the order registered; provided, however, that
 9 the other half of such collections each month may be used
 10 for the payment of withdrawals other than in the order
 11 registered, but no member shall receive more than one
 12 hundred dollars (\$100.00) in any one month other than by
 13 payment of an application for withdrawal in the order
 14 registered. The term "outstanding contracts" includes the
 15 costs and expenses of operation, completion of loans,
 16 payment of taxes and assessments and necessary remodeling
 17 and repairs on properties owned by or mortgaged to the
 18 association, repayment of all borrowed money and all fixed
 19 charges.

20 (9) To cancel shares of stock upon which all credits
 21 have been withdrawn, or upon which loans have been canceled
 22 or stock upon which no payments have been made for a period
 23 of six (6) months, by returning to the stockholders all
 24 credits, if any, and reissue such shares as new stock.

25 (10) To issue stock to minors and permit the same to be

1 withdrawn as other stock, and the receipt of such minor
2 shall be a valid acquittance if his rights have been fully
3 secured to him.

4 (11) To acquire, hold, encumber and convey such real
5 estate and personal property as may be necessary for the
6 transaction of its business, or necessary to enforce or
7 protect its securities. Provided, not over ten ~~(10)~~-per-cent
8 percent (10%) of the assets of any association shall be
9 invested in home office buildings, furniture and fixtures.
10 Also ownership of other real property acquired in any manner
11 or for any purpose shall not be held for more than five (5)
12 years, except by permission of the superintendent of banks.

13 (12) To borrow money, only when necessary not exceeding
14 twenty ~~(20)~~-per-centum percent (20%) of its assets except
15 when borrowing from the federal home loan bank as
16 hereinafter provided, and issue its promissory note
17 therefor; provided, that the assets and securities of an
18 association shall not be pledged or hypothecated to secure
19 its borrowed money or for any other purpose, without the
20 consent of the superintendent of banks. However, if the
21 superintendent of banks determines that it is advisable to
22 pledge assets in order that funds may be secured he may
23 authorize such pledging or hypothecation; but in no event
24 shall the margin of security pledged exceed twenty-five ~~(25)~~
25 per-centum percent (25%) of the funds so borrowed except

1 when funds are borrowed from the federal home loan bank; an
2 association may borrow money from the federal home loan bank
3 upon such terms as may now or hereafter be required by the
4 federal home loan bank, and to execute the promissory note
5 of the corporation therefor, and to pledge or hypothecate
6 any of the assets of the corporation to secure the repayment
7 of said loan, with interest, in accordance with the Federal
8 Home Loan Bank Act, and the rules and regulations adopted or
9 to be adopted thereunder.

10 (13) To make loans to members on the security of the
11 shares of the association, and also on their notes secured
12 by first mortgages on improved real estate, including
13 suburban homes, but not on farm lands or mining property,
14 for not to exceed seventy-five ~~(75)~~-per-centum percent (75%)
15 of the actual value of such real estate, and upon such terms
16 and conditions as may be provided in the constitution and
17 bylaws; provided, however, that in all cases where the
18 promissory note, or other written evidence of the loan made
19 by any building and loan association required the payment of
20 said loan, or total aggregate sum of principal and interest
21 in periodic installments, said promissory note, or other
22 written evidence of debt shall specifically state the actual
23 interest rate charged the borrower upon the unpaid balance
24 of the principal amount at each periodic payment; provided,
25 further, that when the note or other evidence of debt does

1 not require the payment of said loan in periodic
2 installments, the note or other evidence of debt shall
3 specifically state the actual rate of interest to be charged
4 the borrower:

5 Provided, however, that in all notes and mortgages now
6 in force which do not specify the actual rate of interest
7 charged the borrower upon the unpaid balance of the
8 principal at each periodic payment, all payments made on the
9 said notes must be distributed by crediting the same, first,
10 upon the interest on the unpaid balance of the loan at the
11 rate actually earned under the terms of the notes and
12 mortgages, and the remainder upon the principal of the loan,
13 and no charges or deductions from any of said periodic
14 payments shall be permitted by any such association not
15 specifically provided for in said promissory note or other
16 evidence of such loan except the late payment penalty and
17 the-additional-interest-charge-on-late-payments.

18 (14) To cancel such loans and release the securities on
19 such terms as the board of directors may provide. But any
20 borrower may have his loan canceled upon the following
21 terms, to wit:

22 By paying all the interest up to date of cancellation
23 and the sum actually borrowed, less payments on principal,
24 dues paid in and the dividends credited.

25 (15) To invest the money of the association in:

1 (a) The bonds and securities of the United States,
2 bonds and other obligations guaranteed as to interest and
3 principal by the United States, and the stocks, bonds,
4 debentures and other securities and obligations of any
5 federal home loan bank created under the laws of the United
6 States;

7 (b) The bonds and warrants of any state and of any
8 county, city or school district of the state of Montana;

9 (c) The obligations of the federal savings and loan
10 insurance corporation lawfully issued pursuant to Title IV
11 of the National Housing Act;

12 (d) Improved real estate which has been sold under
13 contract, including suburban homes, but not including farm
14 lands or mining property; provided, however, that the total
15 amount remaining so invested, excluding real estate
16 otherwise acquired, shall at no time exceed fifteen ~~(15)~~-per
17 cent percent (15%) of its assets; and provided further, that
18 in no specific case shall the amount so invested exceed
19 eighty-five ~~(85)~~--per--cent percent (85%) of the price
20 stipulated in the contract of sale or eighty-five ~~(85)~~--per
21 cent percent (85%) of the value of the property so
22 purchased, whichever is the lesser;

23 (e) Not to exceed ten ~~(10)~~-per-cent percent (10%) of
24 the association assets in other bonds and securities.

25 (16) To loan money to other building and loan

1 associations;

2 (17) To make such semiannual distribution of all the
3 earnings after payment of expenses and setting aside a sum
4 for the contingent funds as herein provided;

5 (18) To amend its articles of incorporation by changing
6 the name, place of business, the number of directors; to
7 increase or decrease the capital stock and provide for its
8 own continual succession by a majority vote of its
9 directors; provided that no such amendments shall be
10 effected until first approved by the superintendent of
11 banks;

12 (19) To dissolve the corporation in accordance with the
13 provisions of this chapter;

14 (20) To provide by constitution and bylaws, adopted or
15 amended, by its board of directors for the proper exercise
16 of the powers herein granted and the conduct and management
17 of its affairs;

18 (21) All such other powers as are necessary and proper
19 to enable such corporation to carry out the purpose of its
20 organization.

21 (22) Any two (2) or more building and loan
22 associations, by and with the consent and approval of the
23 superintendent of banks, may consolidate and unite and
24 become incorporated in one (1) body, with or without any
25 dissolution or division of the funds or property of any such

1 association, or any such association may transfer its
2 engagements, funds and property to any like association upon
3 such terms as may be agreed upon by a majority vote of the
4 respective board of directors, and ratified by a two-thirds
5 (2/3) vote of the shares present and voting in person or by
6 proxy at a special meeting or meetings of the stockholders
7 of the respective associations convened for that purpose,
8 upon notice given as provided by law, said notice to state
9 the object of the meeting. No such transfer shall prejudice
10 any right of any creditor of such association."

-End-

March 18, 1975

SENATE COMMITTEE OF THE WHOLE
AMENDMENTS TO HOUSE BILL NO. 77

That House Bill No. 77, third reading, be amended as follows:

1. Amend Senate Committee on Business and Industry amendments, dated March 14, 1975.
Strike: Amendment No. 3 in its entirety
2. Amend page 2, section 1, lines 17 through 21 and line 22.
Following: "**interest**"
Strike: "PENALTY at a rate not exceeding FOUR PERCENT (4%) OF THE PAYMENT DUE may also be charged on ANY PAYMENT MORE THAN FIFTEEN (15) DAYS LATE from the time such payments are due."
Insert: "Interest not exceeding the maximum lawful contract rate may also be charged on unpaid interest, principal payments or both, from the time such payments are due."

March 18, 1975

SENATE COMMITTEE OF THE WHOLE
AMENDMENTS TO HOUSE BILL NO. 77

That House Bill No. 77, third reading, be amended as follows:

1. Amend Senate Committee on Business and Industry amendments, dated March 14, 1975.

Strike: Amendment No. 3 in its entirety

2. Amend page 2, section 1, lines 17 through 21 and line 22.

Following: "~~Interest~~"

Strike: "PENALTY at a rate not exceeding FOUR PERCENT (4%) OF THE PAYMENT DUE may also be charged on ANY PAYMENT MORE THAN FIFTEEN (15) DAYS LATE from the time such payments are due."

Insert: "Interest not exceeding the maximum lawful contract rate may also be charged on unpaid interest, principal payments or both, from the time such payments are due."

1 HOUSE BILL NO. 77
 2 INTRODUCED BY KVAALEN
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 7-113,
 5 R.C.M. 1947, TO PERMIT STATE CHARTERED BUILDING AND LOAN
 6 ASSOCIATIONS TO CHARGE AN AMOUNT NOT TO EXCEED FIVE DOLLARS
 7 ~~(\$5) FOUR PERCENT (4%) OF THE PAYMENT DUE~~ FIVE DOLLARS (\$5)
 8 AS LATE PAYMENT PENALTY ON ANY PAYMENT MORE THAN FIFTEEN
 9 (15) DAYS LATE; ~~TO CHARGE INTEREST ON THE LATE PAYMENT AT A~~
 10 ~~RATE NOT TO EXCEED TWELVE PERCENT (12%);~~ TO CHARGE INTEREST
 11 ON THE LATE PAYMENT AT A RATE NOT TO EXCEED THE HIGHEST
 12 LAWFUL RATE AND TO DEDUCT ADD THESE LATE PAYMENT CHARGES
 13 FROM TO ANY PAYMENT."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 7-113, R.C.M. 1947, is amended to
 17 read as follows:

18 "7-113. Powers and duties of building and loan
 19 associations. Every building and loan association is a
 20 creature of the law having certain powers and duties of a
 21 natural person and as such has power:

- 22 (1) Of continual succession, by its corporate name;
- 23 (2) To sue and be sued, in any court;
- 24 (3) To make and use a common seal and alter same at
 25 pleasure;

1 (4) To appoint such officers or agents as the business
 2 of the corporation may require, and to allow them suitable
 3 compensation;

4 (5) To enter into any obligations or contracts
 5 essential to the transaction of its ordinary affairs, or for
 6 the purposes of the corporation.

7 (6) Such associations shall have power to issue stock
 8 to members on such terms and conditions as the constitution
 9 and bylaws may provide, but no association shall issue
 10 preferred stock.

11 (7) To assess and collect from members dues on stock
 12 and interest on loans at the times and in the amount as
 13 provided for in the constitution and bylaws. The combined
 14 total of the amounts paid to an association for interest,
 15 commission, bonus, discount and other similar charges, less
 16 a proper deduction for all dividends, refunds, and cash
 17 credits of all kinds, shall not create an actual net cost to
 18 the borrower in excess of the maximum lawful contract rate
 19 of interest in this state. INTEREST NOT EXCEEDING
 20 THE MAXIMUM LAWFUL CONTRACT RATE MAY ALSO BE CHARGED ON
 21 UNPAID INTEREST, PRINCIPAL PAYMENTS OR BOTH, FROM THE TIME
 22 SUCH PAYMENTS ARE DUE. PENALTY-at-a-rate-not-exceeding-the
 23 maximum-lawful-contract-rate-twelve-percent-(12%)-FOUR
 24 PERCENT-(4%) OF THE PAYMENT DUE may also be charged on
 25 unpaid-interest, principal payments, or both--ANY PAYMENT

1 ~~MORE THAN FIFTEEN (15) DAYS LATE from the time such interest~~
 2 ~~payments--are--due.~~ Interest, not exceeding the lawful
 3 contract rate, may also be charged and collected on
 4 delinquent stock payments when such unpaid payments are
 5 credited with dividends. Said interest shall in no event be
 6 at a rate exceeding the rate ~~per--centum~~ percent of the
 7 dividend declared on the same unpaid stock payments. ~~NO~~
 8 ~~ASSOCIATION SHALL CHARGE OR COLLECT FROM ANY STOCKHOLDER,~~
 9 ~~MEMBER OR BORROWER, ANY FINES, PREMIUMS, OR PENALTIES OF ANY~~
 10 ~~KIND WHATSOEVER; EXCEPT THAT A LATE PAYMENT PENALTY NOT TO~~
 11 ~~EXCEED FIVE DOLLARS (\$5) MAY BE CHARGED FOR PAYMENTS MORE~~
 12 ~~THAN FIFTEEN (15) DAYS LATE. No-association-shall-charge-or~~
 13 ~~collect-from-any-stockholder, member or borrower, any fines,~~
 14 ~~premiums, or penalties of any kind whatsoever, except--that~~
 15 ~~a--late--payment--penalty--not--to--exceed--five--dollars--(\$5)--may~~
 16 ~~be-charged-for-payments-more-than-fifteen--(15)--days--late.~~
 17 Any officer, agent or employee of any association collecting
 18 or attempting to collect any penalty, fine or premium of any
 19 kind whatsoever except the late payment penalty or any
 20 interest at a rate higher than provided in the note or other
 21 evidence of debt and or in this act, shall be guilty of a
 22 misdemeanor.

23 (8) To permit members to withdraw all or part of their
 24 stock credits at such times and upon such terms, as the
 25 constitution and bylaws may provide; provided that no charge

1 or fee, except as herein provided, shall be made against any
 2 member who withdraws his stock, after having given thirty
 3 (30) days' notice of such withdrawal; provided, also, that
 4 no fine of any description shall be made upon the par value
 5 of such stock or upon the declared dividends because of such
 6 withdrawal. Any member who withdraws his stock or whose
 7 stock is matured, shall be entitled to receive all dues paid
 8 in and all dividends declared less interest, if any, as
 9 provided in subsection (7), less a reasonable membership fee
 10 not exceeding two ~~(2)--per-centum~~ percent (2%) of the par
 11 value of each share of stock and less a prorata share of all
 12 losses, if any, which have occurred, and no other fine or
 13 assessments shall be made against such stock. Applications
 14 for withdrawal are to be registered on the books of the
 15 association in the order received and one-half of all cash
 16 collections, not required to meet outstanding contracts,
 17 must be used for the payment of the matured stock and of the
 18 withdrawals in the order registered; provided, however, that
 19 the other half of such collections each month may be used
 20 for the payment of withdrawals other than in the order
 21 registered, but no member shall receive more than one
 22 hundred dollars (\$100.00) in any one month other than by
 23 payment of an application for withdrawal in the order
 24 registered. The term "outstanding contracts" includes the
 25 costs and expenses of operation, completion of loans,

1 payment of taxes and assessments and necessary remodeling
2 and repairs on properties owned by or mortgaged to the
3 association, repayment of all borrowed money and all fixed
4 charges.

5 (9) To cancel shares of stock upon which all credits
6 have been withdrawn, or upon which loans have been canceled
7 or stock upon which no payments have been made for a period
8 of six (6) months, by returning to the stockholders all
9 credits, if any, and reissue such shares as new stock.

10 (10) To issue stock to minors and permit the same to be
11 withdrawn as other stock, and the receipt of such minor
12 shall be a valid acquittance if his rights have been fully
13 secured to him.

14 (11) To acquire, hold, encumber and convey such real
15 estate and personal property as may be necessary for the
16 transaction of its business, or necessary to enforce or
17 protect its securities. Provided, not over ten ~~(10)-per-cent~~
18 percent (10%) of the assets of any association shall be
19 invested in home office buildings, furniture and fixtures.
20 Also ownership of other real property acquired in any manner
21 or for any purpose shall not be held for more than five (5)
22 years, except by permission of the superintendent of banks.

23 (12) To borrow money, only when necessary not exceeding
24 twenty ~~(20)-per-centum~~ percent (20%) of its assets except
25 when borrowing from the federal home loan bank as

1 hereinafter provided, and issue its promissory note
2 therefor; provided, that the assets and securities of an
3 association shall not be pledged or hypothecated to secure
4 its borrowed money or for any other purpose, without the
5 consent of the superintendent of banks. However, if the
6 superintendent of banks determines that it is advisable to
7 pledge assets in order that funds may be secured he may
8 authorize such pledging or hypothecation; but in no event
9 shall the margin of security pledged exceed twenty-five ~~(25)~~
10 per-centum percent (25%) of the funds so borrowed except
11 when funds are borrowed from the federal home loan bank;
12 an association may borrow money from the federal home loan bank
13 upon such terms as may now or hereafter be required by the
14 federal home loan bank, and to execute the promissory note
15 of the corporation therefor, and to pledge or hypothecate
16 any of the assets of the corporation to secure the repayment
17 of said loan, with interest, in accordance with the Federal
18 Home Loan Bank Act, and the rules and regulations adopted or
19 to be adopted thereunder.

20 (13) To make loans to members on the security of the
21 shares of the association, and also on their notes secured
22 by first mortgages on improved real estate, including
23 suburban homes, but not on farm lands or mining property,
24 for not to exceed seventy-five ~~(75)-per-centum~~ percent (75%)
25 of the actual value of such real estate, and upon such terms

1 and conditions as may be provided in the constitution and
 2 bylaws; provided, however, that in all cases where the
 3 promissory note, or other written evidence of the loan made
 4 by any building and loan association required the payment of
 5 said loan, or total aggregate sum of principal and interest
 6 in periodic installments, said promissory note, or other
 7 written evidence of debt shall specifically state the actual
 8 interest rate charged the borrower upon the unpaid balance
 9 of the principal amount at each periodic payment; provided,
 10 further, that when the note or other evidence of debt does
 11 not require the payment of said loan in periodic
 12 installments, the note or other evidence of debt shall
 13 specifically state the actual rate of interest to be charged
 14 the borrower:

15 Provided, however, that in all notes and mortgages now
 16 in force which do not specify the actual rate of interest
 17 charged the borrower upon the unpaid balance of the
 18 principal at each periodic payment, all payments made on the
 19 said notes must be distributed by crediting the same, first,
 20 upon the interest on the unpaid balance of the loan at the
 21 rate actually earned under the terms of the notes and
 22 mortgages, and the remainder upon the principal of the loan,
 23 and no charges or deductions from any of said periodic
 24 payments shall be permitted by any such association not
 25 specifically provided for in said promissory note or other

1 evidence of such loan except the late payment penalty AND
 2 THE ADDITIONAL INTEREST CHARGE ON LATE PAYMENTS and the
 3 additional-interest-charge-on-late-payments.

4 (14) To cancel such loans and release the securities on
 5 such terms as the board of directors may provide. But any
 6 borrower may have his loan canceled upon the following
 7 terms, to wit:

8 By paying all the interest up to date of cancellation
 9 and the sum actually borrowed, less payments on principal,
 10 dues paid in and the dividends credited.

11 (15) To invest the money of the association in:

12 (a) The bonds and securities of the United States,
 13 bonds and other obligations guaranteed as to interest and
 14 principal by the United States, and the stocks, bonds,
 15 debentures and other securities and obligations of any
 16 federal home loan bank created under the laws of the United
 17 States;

18 (b) The bonds and warrants of any state and of any
 19 county, city or school district of the state of Montana;

20 (c) The obligations of the federal savings and loan
 21 insurance corporation lawfully issued pursuant to Title IV
 22 of the National Housing Act;

23 (d) Improved real estate which has been sold under
 24 contract, including suburban homes, but not including farm
 25 lands or mining property; provided, however, that the total

1 amount remaining so invested, excluding real estate
 2 otherwise acquired, shall at no time exceed fifteen ~~(15)-per~~
 3 ~~cent~~ percent (15%) of its assets; and provided further, that
 4 in no specific case shall the amount so invested exceed
 5 eighty-five ~~(85)--per--cent~~ percent (35%) of the price
 6 stipulated in the contract of sale or eighty-five ~~(85)--per~~
 7 ~~cent~~ percent (85%) of the value of the property so
 8 purchased, whichever is the lesser;

9 (e) Not to exceed ten ~~(10)-per-cent~~ percent (10%) of
 10 the association assets in other bonds and securities.

11 (16) To loan money to other building and loan
 12 associations;

13 (17) To make such semiannual distribution of all the
 14 earnings after payment of expenses and setting aside a sum
 15 for the contingent funds as herein provided;

16 (18) To amend its articles of incorporation by changing
 17 the name, place of business, the number of directors; to
 18 increase or decrease the capital stock and provide for its
 19 own continual succession by a majority vote of its
 20 directors; provided that no such amendments shall be
 21 effected until first approved by the superintendent of
 22 banks;

23 (19) To dissolve the corporation in accordance with the
 24 provisions of this chapter;

25 (20) To provide by constitution and bylaws, adopted or

1 amended, by its board of directors for the proper exercise
 2 of the powers herein granted and the conduct and management
 3 of its affairs;

4 (21) All such other powers as are necessary and proper
 5 to enable such corporation to carry out the purpose of its
 6 organization.

7 (22) Any two (2) or more building and loan
 8 associations, by and with the consent and approval of the
 9 superintendent of banks, may consolidate and unite and
 10 become incorporated in one (1) body, with or without any
 11 dissolution or division of the funds or property of any such
 12 association, or any such association may transfer its
 13 engagements, funds and property to any like association upon
 14 such terms as may be agreed upon by a majority vote of the
 15 respective board of directors, and ratified by a two-thirds
 16 (2/3) vote of the shares present and voting in person or by
 17 proxy at a special meeting or meetings of the stockholders
 18 of the respective associations convened for that purpose,
 19 upon notice given as provided by law, said notice to state
 20 the object of the meeting. No such transfer shall prejudice
 21 any right of any creditor of such association."

-End-