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1	SENATE BILL NO6	1	estate or securities for or on account of his principal.
2	INTRODUCED BY HAZELBAKER	2	(3) It shall be is unlawful for any corporation,
3		3	partnership, firm, or individual to engage in or transact a
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND	4	banking business within this state, except by means of a
5	CLARIPY THE LAWS RELATING TO BANKS, BUILDING AND LOAN	5	corporation duly organized for such purpose.
6	ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT	6	(4) Banks are divided into the following classes:
7	CORPORATIONS, AND CONSUMER LOAN BUSINESSES."	7	(a) Consorvial Banks, connercial banks:
8		8	(b) : Savings Banks, savings banks;
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF BOUTANA:	9	(C) Frust Companies, trust companies;
10	Section 1. Section 5-102, R.C.S. 1947, is amended to	10	(d) Investment Companies, investment companies.
11	read as follows:	11	provided, further, hevever, that this act shall not apply to
12	"5-102. Institutions to which act is applicable. <u>(1)</u>	12	any. person, firm or accoriation new deing a private banking
13	The word "Bask" "bask" as used in this act <u>title</u> , chall be	13	basiness;provided,bowever,thatsaidprivatebanks
14	construed to mean means any corporation which shall have <u>has</u>	14	kereinabeve referred to shall come under all of the
15	been incorporated to conduct the business of receiving money	15	provisions ofthis act which anybefairlyapplicable
16	on deposity or transacting a trust or investment business as	16	therete;provided further, however, that this act-shall-not
17	toroisaftor-defined.	17	[5] This title does not apply to any investment
18	[2] The soliciting, receiving, or accepting of money	18	company or corporation y herefore established <u>prior to</u>
19	or its equivalent on deposit as a regular business , shall be	19	<u>March 8, 1927</u> , under authority of the law of Montana _y not
20	decend-to be <u>is</u> doing a commercial or savings bank business,	20	accepting, receiving, and or holding money on deposit.*
21	whether such deposit is made subject to check or is	21	Section 2. Section 5-202.1, R.C.B. 1947, is amended to
22	ewidenced by a certificate of deposit, a passbook, a note,	22	read as follows:
23	or other receipter provided, that nothing herein chall apply	23	"5-202.1. Board to refuse or approve application. The
24	<u>applies</u> to or include <u>includes</u> money or its equivalent left	24	board may refuse or approve an application for a certificate
25	in escrow, or left with an agent pending investment in real	25	of authorization in accordance with sections 5-607 5-610

INTRODUCED BILL

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1 through 5-614." 2 Section 3. Section 5-403. R.C.H. 1947, is amended to read as follows: 3 a "5-403. Scope of term "liquidating officer" --department of business regulation to file inventory with 5 6 district court --- report. (1) For the purpose of this 7 section the term "liquidating officer" includes every person legally empowered to liquidate the business and affairs of a 8 9 state bank, whether the liquidation is by the department of 10 business regulation or its deputies and agents. The term 11 also includes all receivers of state banks qualified to 12 liquidate a state bank under any law of this state. 13 (2) The liquidating officer of a bank may decide when 14 the assets of a failed bank are not sufficient to pay the 15 debts, contracts, engagements, and liabilities, and he may determine the question of the time when and the court where 16 necessary legal proceedings shall be conducted, subject to 17 18 the general provisions of law governing venue and place of 19 trial. For-the pyrposes of this costion the tora 20 21 espowered to liquidate the business and affairs of a state 22 23 bacinocc---requiation,---its---deputics---and---aquate---and--also 24 isoludos-all-receivers-of-state basks qualified to liquidate a-state-bask under-any-law of this-state. 25 -3-

1 (3) The provisions of this chapter do not impose any 2 liability on a stockholder of a bank which is a member of 3 the <u>Pederal Deposit Insurance Corporation</u> <u>federal deposit</u> 4 insurance <u>corporation</u>.

(4) The department shall, within mimoty--(90) days 5 after taking charge of an insolvent bank, file with the 6 district court having jurisdiction a complete inventory of 7 all of the property and assets of the insolvent bank, such A as furniture, fixtures, real estate, mortgages, bonds, and 9 notes, secured and unsecured. It shall also every six {6} 10 months, or more ofteny if required by the court, file with 11 the court a report showing the conditions status of the 12 liquidation of the bank, the assets that have been 13 liquidated and collected, the amounts and manner of payments 14 made to creditors, the manner in which claims have been 15 handled, and the assets on hand. The report shall contain 16 other information the court requires, so that the court and 17 the public may be apprised of the condition of the bank and 18 the manner in which it is being liquidated with respect to 19 the collection and sale of assets belonging to the bank and 20 the manner in which claims are being paid. The report and 21 account shall be set for hearing upon the notice the court 22 may require and, if found to be correct, shall be approved 23 24 by the court." Section 4. Section 5-504, R.C.M. 1947, is amended to 25

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1 read as follows:

2 *5-504. Real estate which banks may purchase, hold, or
3 convey. (1) A bank organized under the provisions of this
4 act may purchase, hold, or convey real estate which:

5 (a) For is necessary for the proper transaction of its 6 business, but it shall not invest an amount exceeding fifty 7 por cont-(50%) of its paid-up capital and surplus in the lot 8 and building in which the business of the company is carried 9 on, furniture, equipment and fixtures, vanits and safety 10 vaults, and boxes necessary or proper to carry on its 11 banking business:

12 (b) Is is mortgaged to it in good faith by way of
13 security for loans previously made or moneys due to the
14 corporations bank;

15 (c) He is conveyed to it in satisfaction of debts
16 previously contracted in the course of its business;

17 (d) It it purchases at sales under judgments, decrees,
18 or mortgages held by the company bank.

19 (2) Real estate acquired in the manner set forth in 20 subsections (1)(c) and (1)(d) of this section may not be 21 held longer than five-(5) years from the date of 22 acquisition, unless special written permission to do so is 23 granted by the department of business regulation. The real 24 estate shall be carried on the books of the bank for an 25 amount not greater than its cost to the bank, including 1 costs of foreclosure and other expenses of acquiring title.*

2 Section 5. Section 5-506, R.C.8. 1947, is amended to
3 read as follows:

н "5-506. Limitation on real estate loans. (1) 1 5 sommersial bank organized under the laws of this state may 6 make real estate loans, secured by first liens upon improved 7 real estate, including improved farm land and improved 8 business and residential properties, and may purchase an 9 obligation so secured when the entire amount of the 10 obligation is sold to the bank. The amount of the loan may 11 not exceed fifty persent (50%) of the appraised value of the 12 real estate offered as security, and the loan may not be made for a longer period than fire (5) years, except that: 13

14 (a) The the loan may be made in an amount not to 15 exceed sixty percent (60%) of the appraised value of the real estate offered as security and for a term not longer 16 than twenty (20) years if the loan is secured by an 17 18 amortized mortgage, deed of trust, or similar instrument. 19 under the terms of which the installment payments are sufficient to amortize forty-persont (40%) or more of the 20 21 principal of the loan within not more than twenty (20)-22 years: and

(b) A-composited a bank may not make those loans in an
aggregate sum in excess of the amount of its capital stock
paid in and unimpaired plus the amount of its unimpaired

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surplus or in encess of sixty persont (60%) of the amount of
 its time and saving deposits, whichever is greater.

3 (2) Loans made to finance the construction of residential or farm buildings and having maturities of not 4 to exceed six (6) wonths, whether or not secured by a 5 mortgage or a similar lien on real estate upon which the 6 7 residential or farm building is being constructed. are not 8 loans secured by real estate within the meaning of this 9 section \mathbf{v} but shall be classed as ordinary commercial loans. A connersial bank may not invest in or be liable on any of 10 those loans in an aggregate amount in excess of fifty 11 12 13 capital.

14 (3) Loans made to establish rural or connercial 15 businesses. which are in whole or in part discounted or 16 lo. ed against as security by a federal reserve bank for any 17 part of which a commitment has been made by a federal 18 reserve bank or in which an agency of the federal government 19 co-operated cooperated OT purchases purchased a 20 participation in, are not subject to the restrictions or 21 limitations of this section upon loans secured by real 22 estate. A connercial bank in this state has from time to 23 time the same authority to make loans upon real estate which 24 may be given by acts of Congress congress or the federal 25 reserve system to national banks or bank members of the

1 federal reserve system.

(4) The limitations and restrictions imposed by this 2 section do not prevent the renewal or extension of loans 3 made before February 18, 1941, and do not apply to real а estate loans which are insured under the provisions of any 5 act of Generoes congress. Those limitations and restrictions 6 do not apply to the making, extension, or renewal of any 7 loans made under subchapter II of the act of Congress 8 congress known as the Servicemen's Readjustment Act of 1944, 9 or any amendment or supplement to that act. 10

(5) This section, however, does not prevent a bank 11 from taking another and immediately subsequent mortgage or 12 deed of trust when it already holds a first mortgage or deed 13 14 of trust on the real estate, or from accepting a second lien on real estate to secure the repayment of a debt previously 15 contracted in good faith. These provisions do not prevent 16 subsequent liens of any kind from being taken to secure the 17 18 payment of a debt previously contracted in good faith, when, 19 in the judgment of the directors of the bank, the subsequent 20 liens are necessary further to secure the payment of any 21 debts and save the bank from loss. "Comportal-bank" as aced in this section means a bank organized to do -- only -- the 22 23 business specified in sections 5-104 to 5-107." 24 Section 6. Section 5-508, B.C.M. 1947, is amended to

25 read as follows:

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1 #5-508. Business prohibited unless under department ---ase-of-cortain words-prohibited ----- court--- way--- when then 2 3 advertising as bank prohibited - trade manes restricted. (1) A person, firm, company, sopartaership partnership, or a. corporation, either domestic or foreign, not subject to the 5 supervision of the department, and not required by the 6 7 provisions of this act to report to it, and which has not received a certificate to do a banking business from the 8 9 department, may not:

10 (a) advertise that he or it is receiving or accepting
11 money or savings for deposit, investment, or otherwise, and
12 issuing notices or certificates of deposit therefor, or

13 (b) use an office sign₇ at the place where the
14 business is transacted₇ having on it an artificial or
15 corporate name₇ or other words indicating that:

16 <u>(i)</u> the place or office is the place or office of a
17 bank or trust company<u>ri</u>

18 or that (ii) deposits are received there or payments
19 made on checkr: or

20 (iii) any other form of banking business is transacted
21 there.

<u>(2)</u> That person, or persons, firm, company,
 copartnership <u>partnership</u>, or corporation, domestic or
 foreign, may not use or circulate letterheads, bill-heads
 <u>billheads</u>, blank notes, blank receipts, certificates, or

circulars, or any written or printed or partly written and
partly printed paper, whatever, having on them an artificial
or corporate name or other word or words indicating that the
business is the business of a bank, savings bank, or trust
or investment company.

6 (3) That person, firm, company, copartnoschip 7 partnership, or corporation, or any agent of a foreign 8 corporation, not having an established place of business in 9 the state, may not solicit or receive deposits or transact business in the way or manner of a bank, savings bank, 10 11 trust, or investment company, or in a manner which leads the public to believe that its business is that of a bank, 12 13 savings bank, trust, or investment company.

14 <u>(4)</u> A person, firm, Company, copertacrohip 15 partnership, or corporation, domestic or foreign. not 16 subject to the supervision of the department- and not required by the provisions of this act to report to ity and 17 18 which has not received from the department a certificate to 19 do a banking business, may not transact business under a 20 name or title which contains the word "banky", "bankery", 21 "bankingy", "savings banky", "savingy", "trusty", "trusteey", "trust companyy", or "investment companyy", 22 23 <u>(5)</u> A person, firm, COMPANY, copartnership

24 <u>partnership</u>, or corporation, domestic or foreign, violating 25 a provision of this section shall forfeit to the state one

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hundred-dollars (\$100) a day for every day or part of a day
 during which the violation continues.

3 (6) Upon suit by the department, the court may issue 4 an injunction restraining that person, firm, company, 5 separtnership partnership, or corporation during pendency of the action and permanently from further using those words in 6 violation of the provisions of this section, or from further 7 transacting business in a manner which leads the public to 8 believe that its business is that of a bank, savings bank, 9 10 trust, or investment company -- during the pendesor of the action-and-permanently, and may enter any other order or 11 12 decree as equity and justice require."

Section 7., Section 5-517, R.C.N., 1947, is amended to
read as follows:

15 *5-517. Limit on amount of bond issue. No commercial 16 bank shall may purchase, agree to purchase, or underwrite 17 any bond issue in excess of tea. por sentem 10% of its 18 assets, except bonds of the United States, of the state of 19 Hontana, or of the cities, towns, counties, or school 20 districts of this state."

Section 8. Section 5-519, R.C.B. 1947, is amended to
read as follows:

23 *5-519. Obtaining property by fraud-- false-report
 24 rofusal to pormit inspection of books Praud by director,
 25 officer, or employee. A director, officer, agent, or

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1 employee of a bank is quilty of a felony who:

2 (1) Knowingly knowingly receives or possesses himself
3 of any of its property, otherwise than in payment for a just
4 demand, and with intent to defraudy:
5 (a) omits to make or to cause or direct to be made a

6 full and true entry of it in its books and account; or τ

7 (2) (b) Concurs in omitting to make any
 8 material entry thereof; OFF

9 (3) (2) Knowingly knowingly concurs in making or
10 publishing any written report, exhibit, or statement of its
11 affairs or pecuniary conditiony containing any material
12 statement which is false; ory

13 (4) [3] Having having the custody or control of its
14 books, willfully refuses or neglects to make a proper entry
15 in the books of that corporation as required by law, or to
16 exhibit them, or allow them to be inspected and extracts to
17 be taken from them by the department, is guilty of a
18 felony,"

19 Section 9. Section 5-530, R.C.H. 1947, is amended to20 read as follows:

21 "5-530. Deposit by minor. Whenever any deposit shall
22 be made in any bank, and by and or in the name of any minor,
23 the same shall be held for the exclusive right and benefit
24 of such minor, and free from the control or lien of all
25 persons whatsoever, except creditors, and shall be paid,

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with any interest due thereon, to the person in whose name
 the deposit shall have been was made, and the receipt of
 such minor shall be is a sufficient release or discharge for
 such deposit to the bank."

5 Section 10. Section 5-604, R.C.S. 1947, is amended to 6 read as follows:

7 "5-604. Director of business regulation and employees 8 not to be interested in banks. Weither the director of <u>the</u> 9 <u>department</u> of business regulation nor any bank examiner may 10 be interested in or a borrower from any state bank, directly 11 or indirectly."

Section 11. Section 5-609, R.C.W. 1947, is amended to
read as follows:

14 *5-609. Secretary State banking board - Secretary of
15 board - meetings of board - per diem quores - resuperation.
16 (1) The board state banking board, established by 622-407.
17 shall elect from its members a secretary to serve at the
18 pleasure of the board.

19 (2) In performing its functions the board shall have 20 use of the offices, equipment, and personnel of the 21 department of business regulation as it requires.

22 (3) The board shall hold regular meetings each quarter 23 at a fixed date and time at the office of the department of 24 business regulation. Special meetings may be called at any 25 time by the chairman upon three (3) days days notice to the 1 nembers.

2 (4) A quoram for all meetings shall be a majority of 3 the board members, and action may be taken by a majority of

4 the guorum present at any meeting.

5 <u>(5)</u> The chairman shall have a voice but no vote in all 6 meetings except to break a tie.

7 (6) Any board member except the chairman may be 8 removed by the governor without cause in any case.

(7) The board members, except the chairman, shall be 9 paid twenty five dellars (\$25) per day or any part thereof 10 devoted to the performance of their duties, and actual and 11 reasonable expenses incurred in the performance of their 12 13 duties and mileage as provided by law to state officers. The costs and expenses of the board shall be legitimate charges 14 15 of the department of business regulation." 16 Section 12. Section 5-610, R.C.H. 1947, is amended to

17 read as follows:

18 "5-610. Powers <u>and duties</u> of board. The state banking
19 board shall:

20 (1) make final determinations upon applications for
21 certificates of authorization for new banks, mergers,
22 consolidations, and relocations of banks;

23 (2) act in an advisory capacity with respect to the
24 duties and powers given by statute or otherwise to the
25 director of the department of business regulation as said

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the duties and powers relate to banking." 1 Section 13. Section 5-611, B.C.M. 1947, is amended to 2 З read as follows: "5-611. Rules adopted by board --- new banks. The board 4 shall adopt rules necessary for the administration of this 5 ast 5-609 through 5-614 in accordance with the Montana 6 Administrative Procedure Act [-82-4201 to 82-4225]. In 7 8 particular, the board shall adopt rules concerning the authorization of new banks. Such rules shall contain 9 minimum standards under which an application for a new bank 10 shall be determined, including the following: 11 (1) a persuasive showing that there is a reasonable 12 public necessity and demand for a new bank at the proposed 13 14 location: (2) that the bank will be owned and managed by persons 15 of good moral character and financial integrity, and will be 16

(3) a persuasive showing that the new bank will have a
sufficient volume of business to assure solvency and that
establishment of the new bank will be in the public
interest."

safely and soundly operated;

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22 Section 14. Section 5-702, R.C.H. 1947, is amended to 23 read as follows:

24 "5-702. Report of declaration of dividend. In addition
25 to the statement report required by section 5-701, a bank

shall report to the department within ten {10} days after 1 declaring any dividend, showing the amount of the dividend 2 and the amount of net earnings in excess of the dividend. P The statement report shall be attested as provided for in £L. the attestation of statement by section 5-701." 5 Section 15. Section 5-707, R.C.H. 1947, is amended to 6 read as follows: 7 *5-707. False statements and entries deemed considered 8 felony. Every officer or other person authorized by this 9 acty who willfully and knowingly makes any false statement 10 of facts, statement of account, or reporty and every 11 officer, agent, or clerk of any bank who willfully and 12 knowingly makes any false entries in the books of such banky 13 or knowingly subscribes or exhibits false papers, with the 14 intent to deceive any person authorized to examine such 15 banky and every person authorized by the provisions of this 16 act to make statements or reports, who willfully and 17 knowingly subscribes or makes any false statement or reporty 18 chall be deemed is guilty of a felony, and, upon conviction 19 thereofy shall be imprisoned at hard labor in the state 20 prison for a term of not less than one-{1}-nor or more than 21 ter (10) years." 22 Section 16. Section 5-802, B.C.M. 1947, is amended to 23

24 read as follows:

25 *5-802. Penalty for receiving deposits when insolventy

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or for making false statements. Any officer, agent, or clerk 1 of any bank, knowing such bank to be insolvent, who receives 2 money, bank bills, notes of the United States, or currency-3 or other bills or drafts circulating as money or currency, Δ. except in the manner set forth in the succeeding section; 5 or the subscribes or makes any false statements or entries 6 in the books of such bank, or; knowingly subscribes or 7 exhibits any false paper with the intent to deceive any 8 person authorized to examine as to the condition of such 9 banky; or willfully subscribes or makes false reports, shall 10 be is subject to imprisonment at hard labor in the state 11 prison for a term not exceeding five (5) years." 12

13 Section 17. Section 5-1002, R.C.M. 1947, is amended to
14 read as follows:

15 =5-1002. Change from state to national bank. Any bank 16 may become a corporation for the purpose of carrying on the 17 business of banking in this state, under the act of Gongress congress "to provide a national currency secured by a pledge 18 of United States bonds, and to provide for the circulation 19 and redemption thereofy", approved June 3, 1864, and of 20 under Title 52 of the Revised Statutes of the United States, 21 when stockholders owning two-thirds (2/3) of the stock of 22 the bank have voted to become such corporation, or have 23 executed a written consent authorizing its directors to make 24 the certificate required therefor by the laws of the United 25

1 States, or when a majority of the directors of the bank. 2 having been authorized in their discretion to make the 3 change, shall, by a vote of the majority, decide to become h such corporation. The cashier of the bank shall publish notice thereof for thirty (30) days in the newspaper which 5 6 the directors select, and send a like printed notice by sail or otherwise to all nonvoting or dissenting stockholders-7 and notify the department of business regulation that the 8 9 bank has decided to become a corporation under the laws of 10 the United States." 11 Section 18. Section 5-1019, R.C.E. 1947, is amended to

13 #5-1019. Special examination defined. As a special 14 examination is an examination made by the department 15 otherwise than in the ordinary routine of the department_{τ} 16 and because, in its opinion, the condition of the bank 17 requires the examination, and or an examination made at the 18 request of the board of directors or stockholders of a bank-19 is a spocial examination." 20 Section 19. Section 5-1021, R.C.E. 1947, is amended to

21 read as follows:

read as follows:

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⁸⁵-1021. Consolidation <u>or merger</u> of banks. (1) The
 words "bank" or "banks" as used in this section include
 <u>conmercial banks, savings banks, trust companies, investment</u>

25 companies, and other such corporations carrying on the

business of banking, trust company, or investment company 1 2 under the laws of this state or doing business in this state 3 under the national banking laws of the United States. 4 (2) Any two or more banks doing business in this 5 state, may, with the approval of the state banking board, in 6 the case of state banks, consolidate, join and or merge into one bank under, into and with the charter of either existing 7 bank-haroinafter-referred to as the senselidated bank, on 8 9 such terms and conditions as may be lawfully agreed upon by 10 a majority of the board of directors of each bank proposing 11 to consolidate, and be ratified and confirmed or merge. 12 Such consolidation or merger, before it becomes effective. 13 must be ratified by the consent in writing of the 14 shareholders of each such bank owning at least two-thirds of 15 its capital stock outstanding, provided, that the capital stock of such consolidated or merged bank shall may not be 16 17 less than that required under existing law for the 18 organization of a bank of the class of the largest of the banks so consolidating. 19

20 (3) Upon such consolidation or merger, the corporate 21 franchise, corporate life, being, and existence, and the 22 corporate rights, powers, duties, privileges, franchises, 23 and obligations, including the rights, powers, duties, 24 privileges, and obligations as trustee, executor, 25 administrator, guardian, and all and every right, power,

duty, privilege, and obligation as fiduciary, together with 1 title to every species of property, real, personal, and 2 mixed, of such consolidating or merging bank and banks з shall, without the necessity of any instrument of transfer, 41 be and become consolidated or merged and continued in and 5 held. enjoyed, and we assumed by the consolidated or merged 6 bank, and such consolidated bank shall have and enjoy the 7 right equal as to priorities with any other applicant to я 9 appointment by the courts to the offices of executor, 10 administrator, quardian, and/or trustee under any will or 11 other instrument made prior to such consolidation or merger 12 and by which will or instrument such consolidating or 13 merging bank was nominated by the maker to such office. 14 The word "bank" or "hanks" as anod in this costiony 15 shall--be--held--to-izelede-cozzoroiel-basks,-cavinge-basksy 16 corporations carrying on the business of banking, trust 17 18 company or invostment-company ander the laws of this estate or---doing---broizegg-in-thig-state-under-the-national-banking 19 20 lavs of the United States." 21 Section 20. Section 5-1027, R.C.M. 1947, is amended to read as follows: 22 23 "5-1027. Department may make rules. The department 24 ohall have the authority to make and may promulgate

25 reasonable rules and orders in the matter of concerning

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bookkeeping and accounting by state banks, including the
 keeping of reasonable credit information, or information in
 connection with assets, and for or information in connection
 with charged-off charged-off items."

5 Section 21. Section 5-1032, R.C.H. 1947, is amended to 6 read as follows:

7 *5-1032. Bonding of employees. (1) It shall be the 8 daty of the The board of directors of every bank to shall 9 require that all officers and employees of banks whose duty 10 includes the handling of moneys, notes, bonds, credits, and 11 cash items, and whose duties include bookkeeping and/or the 12 making of entries in relation to the business of the bank 13 and its customers, be bonded.

[2] The board of directors shall by order duly entered 14 upon the minutes minute books of the board designate the 15 officers and employees to be bonded and the amount of bonds 16 to be given. Such action as to the personnel, and the amount 17 of bonds, and the surety company or sureties to be is 18 subject to approval by the departmenty and the bonds to 19 shall be in such form as shall be is provided or approved by 20 21 the department,

22 (3) the The bonds to shall be approved by the 23 president of the bank and his action reported to the board 24 of directorst.

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(4) all held bonds required by this section to shall be

examiners from the department: provided, as far as possible, 2 3 they shall may not be placed in the custody of the officer or employee for whom the same is given." 2 5 Section 22. Section 5-1039, R.C.E. 1947, is amended to read as follows: 6 *5-1039. Giving security for deposit prohibited --7 exceptions. It shall be is unlawful for any bank to pledge, 8 q mortgage, or hypothecate to any depositor any of its real or personal property as security for any deposit, and any 10 11 pledge, mortgage, or hypothecation made in violation thereof 12 shall-be is unenforceable; provided, bevever, that this This provision shall does not apply to any deposits of money 13 14 of the United States, and public funds deposited in 15 accordance with the provisions of any depository act of this state, or the United States, or bankruptcy estate funds or 16 17 deposits, also including deposits of receivers or trustees in bankruptcy, deposited under the direction and supervision 18 of a court of record of the state of Montana or of the 19 20 United States."

kept in the custody of the bank subject to inspection by

21 Section 23. Section 5-1055, R.C.M. 1947, is amended to 22 read as follows:

23 *5-1055. Closing on Saturdays authorized -- Saturday

24 treated as holiday. Any bank, which term for the purposes of

25 this act shall near any corporation as defined in section

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1 5-102- including componental banks and truct companios. no 2 sore particularly defined in sections 5-104, 5-105 and 3 5-106, and any national bank or national banking association 4 incorporated or organized under the laws of the United 5 States of America and any federal reserve bank may, at its 6 election, remain closed and refrain from the transaction of 7 any business on Saturdaysy, and any hay Saturday on which 8 any such bank remains closed shall be, with respect to such 9 bank, a holiday and not a business day. Any act, authorized. 10 required, or permitted to be performed on a Saturday at or by, or with respect to any bank as herein defined, including 11 12 any national bank or national banking association- and any 13 federal reserve bank, on-a Saturday, may be performed on the 14 next succeeding business day, and no liability or loss of 15 any rights of any kind shall result from such closing on 16 Saturday, or from the nonopening of any bank for the 17 transaction of business on any Saturday under the authority 18 of this act-for the transaction of business.*

19 Section 24. Section 5-1106, B.C.B. 1947, is amended to
20 read as follows:

21 "5-1106. Resumption after closing. After the 22 department has taken possession of a bank, it may permit 23 that bank to resume business upon conditions which may be 24 approved by it the department."

25 Section 25. Section 5-1115, B.C.H. 1947, is amended to

1 read as follows:

*5-1115. Claims --- partial payments. (1) The 2 department need not await the expiration of the time allowed ٦. for filing claims, as fixed in the notice to the creditors, ш for the payment of dividends. It may, in its discretion, and 5 if under the circumstances of the particular case it б. considers it expedient and safe, at any time after taking 7 possession of the bank and prior to the expiration of the 8 period fixed for filing of claims, if it has on hand in cash 9 10 sufficient funds over and above the expenses of liquidation, make pro rata distribution to any class of creditors next 11 12 entitled to distribution, in the order of priority fixed in 13 this chapter. making that payment to the creditors as they appear on the books and records of the bank and determining 14 15 the priority and basing his apportionment on the amount shown to be due by the books and records. 16

(2) At any time after the expiration of the date fixed 17 for the presentation of claims against the bank and from 18 time to time thereafter, when, in its discretion, there are 19 sufficient funds available, the department shall, after 20 21 making proper provisions for the payment of expenses of liquidation, declare and pay dividends to all creditors of 22 23 the bank pro rata in the order of their priority. If, after the time fixed for presentation of claims against the bank 24 has expired, it appears that a person, prior to the 25

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expiration of the periody or at any other time, has been
 paid more than the prorate pro_rate amount due him as
 compared with the amounts then paid other creditors, nothing
 more may be paid that creditor until the payment made other
 creditors places them on equal footing.

6 (3) In calculating dividends, all disputed claims and 7 deposits shall be taken into account and the amount of 8 dividends upon the disputed claims or deposits shall be held 9 by the department until the validity of those claims or 10 deposits has been finally determined.

11 (4) Claims against a bank in process of liquidation 12 may be assigned in whole or in part subject to the approval 13 of the department. Assignments of claims are binding apon 14 the department only after they have been filed and allowed 15 by the department, and only then are subject to the payment 16 of the assignor's liabilities to the bank. An assignment 17 shall be made by filing written notice, signed by the 18 original claimant, with the department or person in charge of the bank. No assigned claims may be offset against 19 20 obligations due the bank. A check or draft drawn against a 21 bank closed or taken possession of by the department, 22 whether issued before or after closing, shall may not be 23 recognized as a claim against the bank, or as an assignment 24 of any amount, whether protested or not protested."

25 Section 26. Section 5-1126, R.C.M. 1947, is amended to

1 read as follows:

2 *5-1126. Power of closed banks to borrow money from 3 governmental agencies. After applying to and obtaining the a. approval of the department and the district court of the 5 county in which the bank or trust or investment company is 6 located, and Hotwithstanding notwithstanding any other law, 7 the liquidating agents of closed banks may borrow money from 8 an agency of the federal government on behalf of commercial 9 banks, savings banks, trust companies, and investment companies closed and in liquidation, and, as security 10 11 for the loan the liggidating agent may pledge or mortgage 12 the assets and properties thereof, for the purpose of paying 13 depositors or creditors in part or in fully ... eftor ... applying 14 to-and obtaining the approval of the department-and the 15 district-court-of-the-coupty-in-which the bank-or-truct-or 16 invotech company is located, upon the decat proceedings 17 preseribed in section 5-1107.* 18 Section 27. Section 5-1508, R.C.H. 1947, is amended to 19 read as follows: 20 *5-1508. Transfer of fiduciary relationships between 21 affiliated banks. (1) Any bank which has received approval, pursuant to section-6 f5-1506- to maintain a trust office in 22 23 the same building with the main office of any affiliated bank may file its verified application in the district court 24 25 of the county in which its main office is located requesting

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that it be substituted. except as may be expressly excluded 1 in such application, in every fiduciary capacity for such 2 affiliated bank, and such affiliated bank shall join in such 3 application. Such application shall indicate the county 4 wherein the main office of such affiliated bank is located 5 and shall designate each fiduciary account existing at the 6 date thereof with respect to which the applicant bank 7 requests substitution, but fiduciary capacities in other 8 cases need not be listed. Such application shall 9 10 additionally set forth, with regard to each existing 11 fiduciary account designated therein, the name and address last known to the applicant of each person entitled to 12 13 mailed notice of hearing thereon, who shall be those persons 14 specified in subsections (1)(a) to through (1)(e), inclusive, of section 5-1507. 15

16 (2) When any such application shall have has been
17 filed, the clerk of the court where filed shall make an
18 order fixing a date and time for hearing thereon and shall
19 cause notice thereof to be given by publication and mailing
20 in the manner required by section 5-1507.

(3) The notice to be published and mailed with respect to each each application shall state the time and place of the hearing thereon, the name of the bank which has filed the application, the name of the affiliated bank which has joined in such application, that the application requests

that the applicant bank be substituted in every fiduciary 1 capacity for the affiliated bank specified in the 2 application, and that any person beneficially interested in 3 any affected fiduciary account may appear on or before the h date of hearing and file his written objection to such 5 substitution as to such affected fiduciary account, and such 6 notice shall refer to such application for further 7 8 particulars.

9 (4) On or before the date and time of hearing any such 10 application, any person beneficially interested in any 11 fiduciary account as to which substitution of the applicant 12 bank is requested, may appear and file objection to 13 substitution, and shall be entitled to be heard with respect 14 to such objection.

(5) On such date of hearing, upon finding that due 15 notice has been given as required by this act and upon 16 finding that the applicant bank has received the requisite 17 approval from the department of business regulation, or the 18 19 comptroller of the currency if the applicant bank is a national banking association, the district court shall enter 20 an order substituting the applicant bank in every fiduciary 21 capacity for the affiliated bank designated in the 22 application, excepting as may be otherwise specified in the 23 application, and excepting fiduciary capacities in any 24 account with respect to which an objection has been filed 25

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pursuant to this section. Upon entry of such order, the 1 applicant bank shall, without further act, be substituted in 2 every such fiduciary capacity. Such substitution may be 3 made a matter of record in any county of this state by a filing a certified copy of the order of substitution in the 5 office of the clerk of any district court in this state or 6 by filing a certified copy of such order in the office of 7 the clerk and recorder of any county in this state to be by 8 such officer recorded and indexed in like manner and with 9 like effect as other orders and decrees of court are 10 recorded and indexed. 11

(6) Each designation, in a will or other instrument 12 heretofore or hereafter executed, of a bank as fiduciary 13 shall be deemed a designation of the applicant bank 14 substituted for such bank pursuant to this section except 15 where such will or other instrument is executed after such 16 substitution and expressly negates the application of this 17 Any grant in any such will or other such 18 section. instrument of any discretionary power shall be deemed 19 conferred upon the applicant bank deemed designated as the 20 fiduciary pursuant to this section. 21

(7) A bank shall account jointly with the applicant
bank which has been substituted as fiduciary for such bank
pursuant to this section for the accounting period during
which the applicant bank is initially so substituted. Upon

substitution pursuant to this section, the affiliated bank 1 2 for which substitution has been made shall deliver to such 3 applicant bank all assets held by such affiliated bank as fiduciary (except assets held for accounts with respect of ш 5 which there has been no substitution pursuant to this б section: and upon such substitution all such assets shall 7 become the property of such applicant bank without the R necessity of any instrument or of transfer or conveyance."

9 Section 28. Section 7-102, R.C.H. 1947, is amended to
10 read as follows:

11 "7-102. Articles of incorporation --- contents. 12 Whenever any number of persons, not less than five 45+. 13 shall desire to incorporate a building and loan association, 14 having for its object the conduct and operation of such an 15 association as defined in this act, they shall prepare and 16 file articles of incorporation to that effect in the manner 17 specified in this act, specified, such articles shall 18 be signed, sealed, and acknowledged in the form now provided 19 by the statutes of this state for the conveyance of real 20 estate, and shall include the following:

21 $\frac{1}{10}$ The the name of the association. The name shall 22 which may not be the same as and or too closely resemble. 23 that in use by any existing corporation established under 24 the laws of this state. The words "building and loan 25 association" or "savings and loan association" shall form a

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part of the name, and no a corporation not organized under
 this act shall be ombitled to may not use a name embodying
 oaid that combination of wordst, provided, that the
 associations now existing as of Bay 1, 1927, may continue
 their present namest.

6 3.(2) the <u>the</u> principal office, or place of business
7 of the association <u>which</u> shall be within this state;

3. 3. (3) The the amount of its capital stock and the
9 number of shares into which the same shall be divided; such
10 The capital stock shall be divided into shares having a par
11 value of ene-hundred dellars-(\$100,00);

12 $4_{\frac{1}{2}}$ $\frac{1}{2}$ <u>a provision that such association is organized</u> 13 under this act for the purposes herein expressed;

14 $\frac{5_{\tau}(5)}{5_{\tau}(5)}$ The the names and residences of the persons who 15 subscribed and acknowledged the said declaration, a majority 16 of whom shall be citizens of this state_{τ} and shall 17 thereafter be called incorporators.^m

18 Section 29. Section 7-112, R.C.H. 1947, is amended to 19 read as follows:

*7-112. Proxies. At least once every year the board of
directors of every building and loan association shall, by
resolution, direct cause the secretary of such association
and he shall to mail to every stockholder of such
association a blank form of proxy, and the stockholder shall
have the right and priviloge of withdrawing may withdraw his

former proxy and of substituting substitute another in its
stead. Every proxy shall continue in force and be binding
upon the stockholder until such proxy is revoked or an
another substituted."

5 Section 30. Section 7-139, R.C.H. 1947, is amended to
6 read as follows:

7 "7-139. Obtaining property by fraudy = false reporty 8 = refusal to permit inspection of books. A director, 9 officer, agent, or employee of a building and loan 10 association <u>is quilty of a felony</u> who:

(1) <u>Willfully</u> <u>willfully</u> receives or possesses any of
its property, otherwise than in payment for a just demand,
and with intent to defraudy:

14 (a) omits to make or directs to be made a full
15 and true entry of it in its books and accounts;

16 (2)(b) Compare concurs in omitting to make a material
17 entry thereof;

18 (3) (2) Willfully willfully makes or concurs in making
19 or publishing a written report, exhibit, or statement of the
20 association's affairs or pecuniary condition, containing any
21 material statement which is false: or

22 (4)(3) Having having the custody or control of the 23 association's books, willfully refuses or neglects to make a 24 proper entry in the books as required by lawy or to exhibity 25 or allow them to be inspected and extracts to be taken from

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1 them by the department is guilty of a folony."

2 Section 31. Section 7-156, R.C.H. 1947, is amended to
3 read as follows:

#7-156. Conversion of building and loop-and other home 4 financing--institutions into federal savings and loan 5 associations. Any building and loan association or other 6 home financing organization, by whatever name or style it 7 may be designated. eligible to become a federal savings and 8 loan association may convert itself into a federal savings 9 10 and loan association by following the procedure hereinafter 11 outlined-:

br(1) At any regular meeting of the shareholders of 12 any such association or at any special meeting of the 13 shareholders of such association, in either case called to 14 consider such action and held in accordance with the laws 15 16 governing such association, such shareholders, by an affirmative vote of the majority of said the shareholders, 17 in person or by proxy, may declare by resolution the 18 determination to convert said the association into a federal 19 20 savings and loan association.

21 B-121 A copy of the minutes of such the meeting of the 22 shareholders verified by the affidavit of the president or 23 vice-president and the secretary of the meeting shall be 24 filed with the department of business regulation within top 25 10 days after said the meeting, in the office or department of this state having supervision of such association. Such
 The verified copy of the minutes of such meeting when so
 filed shall be presumptive evidence of the holding and of
 the action of such meeting.

5 Gr (3) Within a reasonable time and without any 6 unnecessary delay after the adjournment of such meeting of 7 shareholders, such association shall take such any action as 8 may-be necessary to make it a federal savings and loan 9 association, and within ten 10 days after receipt of the 10 federal charter there shall be filed in-the effice or 11 department of this state having supervision of such 12 association with the department of business regulation a 13 copy of said the charter issued to such association by the 14 federal home loan bank board or a certificate showing the 15 organization of such association as a federal savings and 16 loan association certified by, or on behalf of, the federal 17 home loan bank board. Upon the filing of such instrument 18 such association shall cease to be a state association and 19 shall thereafter be a federal savings and loan association." 20 Section 32. Section 14-605, R.C.H. 1947, is amended to 21 read as follows: 22 *14-605. Amendments. (1) The articles of incorporation

23 or the bylaws may be amended as provided in the bylaws.

24 Amendments to the articles of incorporation or bylaws shall

25 be submitted to the director of the department of business

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1 regulation who shall approve or disapprove the amendments

2 within sixty (60) days.

3 (2) Amendments shall become effective upon;

4 (a) approval in writing by the director, and for which

5 no fee shall may be charged; for such approval. and

6 (b) filing with the secretary of state."

7 Section 33. Section 14-665, B.C.M. 1947, is amended to
8 read as follows:

9 "14-665. Liquidation. (1) A credit union may elect to
10 dissolve voluntarily and liquidate its affairs in the manner
11 prescribed in this section and the applicable Hontana
12 corporation laws.

13 (2) The board of directors shall adopt a resolution
14 recommending the credit union be dissolved voluntarily, and
15 directing that the question of liquidation be submitted to
16 the members.

17 (3) Within ton (10) days after the board of directors decides to submit the question of liquidation to the 18 19 members, the president shall notify the director of the department of business regulation thereof in writing, 20 setting forth the reasons for the proposed action. Within 21 22 ten (10) days after the members act on the question of 23 liquidation, the president shall notify the director in 24 writing as to whether or not the members approved the 25 proposed liquidation.

1 (4) As soon as the board of directors decides to 2 submit the question of liquidation to the members. payment on shares, withdrawal of shares, making any transfer of 3 4 shares to loans and interest, making investments of any kind, and granting loans shall be suspended pending action 5 by members on the proposal to liquidate. On approval by the б 7 members of such proposal, all such business transactions 8 shall be permanently discontinued. Necessary expenses of operation shall, however, continue to be paid on 9 10 authorization of the board of directors or liquidating agent 11 during the period of liquidation.

12 (5) For a credit union to enter voluntary liquidation, 13 approval by a majority of the members in writing or by a 14 two-thirds (2/3) majority of the members present at a 15 regular or special meeting of the members is required. Where 16 If authorization for liquidation is to be obtained at a 17 meeting of the members, notice in writing shall be given to 18 each member, by first class first-class mail, at least ten 19 (10) days prior to such meeting.

(6) A liquidating credit union shall continue in
existence for the purpose of discharging its debts,
collecting and distributing its assets, and doing all acts
required in order to wind up its business and may sue and be
sued for the purpose of enforcing such debts and obligations
until its affairs are fully adjusted.

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(7) The board of directors of <u>or</u> the liquidating agent
 shall use the assets of the credit union to pay:
 (a) expenses incidental to liquidating, including any
 surety bond that may be required;
 (b) any liability due nonmembers; and

6 (c) special purpose thrift accounts as provided in 7 this act. Assets then remaining shall be distributed to the 8 members proportionately to the shares held by each member as 9 of the date dissolution was voted.

10 (8) is soon as the board of directors or the 11 liquidating agent determines that all assets from which 12 there is a reasonable expectancy of realization have been 13 liquidated and distributed as set forth in this section, 14 they he shall execute a certificate of dissolution on a form prescribed by the department of business regulation and file 15 the same with the department, together with all pertinent 16 books and records of the liquidating credit union, with the 17 department of business regulation whereupon such credit 18 19 union shall be dissolved."

20 Section 34. Section 15-2603, R.C.M. 1947, is amended
21 to read as follows:

22 #15-2603. Incorporators -- general powers -- capital 23 stock -- articles of incorporation. Nine (9) or more 24 persons, a majority of whom shall be residents of this 25 state, who may desire to create a development credit 1 corporation under the provisions of this act, for the 2 purpose of promoting, developing, and advancing the 3 prosperity and economic welfare of the state and, to that 4 end, to exercise the powers and privileges hereinafter 5 provided, may be incorporated in the following manner:

6 <u>(1) such Such</u> persons shall by articles of 7 incorporation filed in the manner prescribed in Title 15 of 8 the Berised Codes of Montana 1947, under their hands and 9 seals, set forth:

10 (1) (a) The the name of the corporation, which shall
11 include the words "Development Credit Corporation of
12 Montana-";

13 (3) (b) The the location of the principal office of the
14 corporation, but such corporation may have offices in such
15 other places within the state as may be fixed by the board
16 of directors-:

17 (3) (C) The purpose the purposes for which the
 18 corporation is founded, which shall include the following:

19 (a) (1) to elect, appoint, and employ officers,
20 agents, and employees;

21 (ii) to make contracts and incur liabilities for any of 22 the purposes of the corporation; provided, that the 23 corporation shall may not incur any secondary liability by 24 way of guaranty or endorsement of obligations of any person, 25 firm, corporation, joint-stock company, association, or

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1 trust, or in any other manner;

2 (b) (iii) To to borrow money from the members, nonmember 3 persons, firms, or corporations, and state and federal 4 agencies, for any of the purposes of the corporation: to 5 issue therefor its bonds, debentures, notes, or other 6 evidences of indebtedness, whether secured or unsecured, and 7 to secure the same by mortgage, pledge, deed of trust. or 8 other lies on its property, franchises, rights, and 9 privileges of every kind and nature or any part thereof or 10 interest therein, without securing stockholder or member 11 approval; providedy that no loan to the corporation shall 12 may be secured in any manner unless all outstanding loans to 13 the corporation shall be are secured equally and ratably in 14 proportion to the unpaid balance of such loans and in the 15 same manner.

16 (6) (iv) To to make loans to any person, firm, 17 corporation, joint-stock company, association, or trust- and 18 to establish and regulate the terms and conditions with 19 respect to any such loans and the charges for interest and service connected therewith : provided, however, that the 20 21 corporation shall may not approve any application for a loan 22 unless and until the person applying for said the loan shall 23 show shows that he has applied for the loan through ordinary 24 banking channels and that the loan has been refused by at 25 least one bank or other financial institution-:

(d) (v) to to participate with any duly authorized
 private lending agency, and city, state, and federal
 governmental lending agencies in the making of loans,

(vi) To to purchase, receive, hold, lease, or а otherwise acquire, and to sell, convey, transfer, lease, or 5 6 otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and 7 appurtenant thereto and the use thereof, including, but not 8 restricted to, any real or personal property acquired by the 9 corporation from time to time in the satisfaction of debts 10 or enforcement of obligations. 11

12 (f) (vii) to to acquire the good will, business, rights, 13 real and personal property, and other assets, or any part 14 thereof, or interest therein, of any persons, firms, 15 corporations, joint-stock companies, associations, or 16 trusts, and to assume, undertake, or pay the obligations, 17 debts, and liabilities of any such person, firm, 18 corporation, joint-stock company, association, or trust;

19(viii) to acquire improved or unimproved real estate20for the purpose of constructing industrial plants or other21business establishments thereon or for the purpose of22disposing of such real estate to others for the construction23of industrial plants or other business establishments; and24(ix) to acquire, construct, or reconstruct, alter,25repair, maintain, operate, sell, convey, transfer, lease, or

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otherwise dispose of industrial plants or business
 establishments-:

(a) (x) To to acquire, subscribe for, own, hold, sell, 3 assign, transfer, mortgage, pledge, or otherwise dispose of £L. the stock, shares, bonds, debentures, notes, or other 5 securities and evidences of interest inv or indebtedness of v 6 any person, firm, corporation, joint-stock company, 7 association, or trusty and while the owner or holder thereof 8 to exercise all the rights, powers, and privileges of 9 ownership, including the right to vote thereon-: 10

11 (b) (xi) to to mortgage, pledge, or otherwise encumber 12 any property, right, or thing of value, acquired pursuant to 13 the powers contained in paragraphs (a), (f), or (g), 14 subsections (1) (c) (vi) through (1) (c) (x) of this section, as 15 security for the payment of any part of the purchase price 16 thereof.; "

(i) (xii) to co-operate to cooperate with and avail 17 itself of the facilities of the state planning and economic 18 development department divisions of the department of 19 community affairs and any similar governmental agencies, and 20 to co-operate cooperate with, and assist, and otherwise 21 encourage organizations in the various communities of the 22 state in the promotion, assistance, and development of the 23 business prosperity and economic welfare of such communities 24 or of this state or of any part thereof -: 25

(1) (xiii) To to accept gifts, donations, bequests,
 devises, or grants from any person, corporation,
 association, or governmental, agency, whether state, federal,
 or municipal-:

5 (k) (xiv) 70 to do all acts and things necessary or
6 convenient to carry out the powers expressly granted in this
7 act-:

(4) (d) The articles of incorporation shall set forth 8 the amount of total authorized capital stock and the number 9 10 of shares in which it is divided, the par value of each 11 share, and the amount of capital stock with which it will commence business, and, if there is more than one class of 12 stock, a description of the different classes, and the names 13 14 and post-office addresses of the subscribers of stock and the number of shares subscribed by each. The aggregate of 15 16 the subscription shall be the amount of capital with which 17 the corporation will commence business.

18 (5)-(2) The articles of incorporation may also contain 19 any provision consistent with the laws of this state for the 20 regulation of the affairs of the corporation or creating, 21 defining, limiting, and regulating its powers. The articles 22 of incorporation shall be in accordance with the provisions 23 of Title 15, Bowised Codes of Sostana 1947, so far as 24 consistent with this act."

25 Section 35. Section 47-209, R.C.B. 1947, is amended to

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1 read as follows:

2 #47-209. License renewal fee - failure to pay-3 offect license when in force. Every licensee shall, on or before the first day of December 1, pay to the 4 5 department the sum of one hundrod twenty five dollars +\$125-00) for each license held as a license fee 6 for the succeeding calendar year. Failure to pay such 7 8 license fee within the time prescribed shall automatically revoke such license." 9

10 Section 36. Section 47-211, R.C.M. 1947, is amended to 11 read as follows:

12 **47-211. Installment payment -- contract period.
13 (1) Ho licensee shall may enter into any contract of loan:
14 (a) of three hundred dollars (\$300) or less, exclusive
15 of charges, under this ast which the borrower agrees to make
16 any scheduled repayment of principal more than twenty one
17 (21) calendar months from the date of making such contract;
18 nor any contract of lean

19 (b) for more than three hundred dollars (\$300) to and 20 including one thousand dollars (\$1,000), exclusive of 21 charges, under which the borrower agrees to make any 22 scheduled repayment of principal more than twenty five (25) 23 calendar months from the date of making; nor any contract 24 of loan

25 (c) for more than one-thousand-dollars (\$1,000) to and

1 including two thousand dollars (\$2,000), exclusive of 2 charges, under which the borrower agrees to make any 3 scheduled repayment of principal more than thirty seven (37) 4 calendar months from the date of making₇₁ nor any contract 5 of lean or

6 <u>(d)</u> for more than two thousand dollars (\$2,000), to 7 and including two thousand five hundred dollars (\$2,500), 8 exclusive of charges, under which the borrower agrees to 9 make any scheduled repayment of principal more than 10 thirty seven (37) calendar months from the date of making.

(2) Every loan contract shall require payment of 11 principal and charges in installments which shall be payable 12 at approximately equal periodic intervals, except that 13 payment dates may be omitted to accommodate borrowers with 14 seasonal incomes. No installment contracted for shall may be 15 substantially larger than any preceding installment. When a 16 loan contract provides for monthly installments, the first 17 installment may be payable at any time within forty five 18 445) days of the date of the loan and the charges for the 19 number of days in encess of thirty (30) from the date of 20 making may be added to the scheduled amount of said the 21 installments." 22

23 Section 37. Section 47-220, R.C.E. 1947, is amended to

24 read as follows:

25 #47-220. Wage assignments -- limitations. (1) The

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payment in money, credit, goods, or things in action, as 1 consideration for any sale or assignment of τ or order for 2 the payment of wages, salary, commission, or other 3 compensation for services, whether earned or to be earned, 4 shall, for the purpose of regulation under this act, be 5 deemed considered a loan secured by such assignment, and the 6 amount by which the assigned compensation exceeds the amount 7 of the consideration actually paid, shall, for the purposes 8 of regulation under this act, be deemed considered interest 9 or charges upon the loan from the date of payment to the 10 date the compensation is payable. Such transactions shall be 11 governed by and be subject to the provisions of this act. 12

(2) Any assignment or other transfer to a licensee or 13 for the benefit of a licenseer of salary, wages, 14 commissions, or other compensation for services, must be 15 limited to not exceeding ten per cont (10%) of such salary, 16 wages, commissions, or other compensation owing at the time 17 of the notice to the debtor's employer, hereinafter 18 provided, and thereafter to become owing. Provided, however, 19 However, no such assignment or order shall be is valid 20 unless it is in writing, signed in person by the borrower, 21 or if the borrower is married, unless it is signed in person 22 by both husband and wife, provided that written assent of a 23 sponse shall-net be is not required when husband and wife 24 have been and are living separate and apart when such 25

1 assignment or order is made. Such notice shall be given only 2 if If the debtor defaults in payment of the whole or some 3 part of the loan for which such assignment or transfer is 8 security, notice shall be given to the debtor's employer of 5 such assignment or transfer. Such notice must be served on 6 the employer or a managing agent of such employer. must be 7 verified by the oath of the licensee or his agent, and must 8 include: 9 (a) # a correct copy of the assignment; 10 (b) & a statement of the amount of such loan and the 11 amount due and unpaid thereony: 12 (c) # a copy of this section. 13 (3) The acceptance and honoring of any assignment shall 14 be at the option of the employer." Section 38. Section 47-226, R.C.E. 1947, is amended to 15 read as follows: 16 17 #47-226. Access to records -- witnesses. For the purpose of this section chapter the department or its duly 18 authorized representatives shall have-and be given free 19 20 access to the offices and places of business, files, safes, 21 and vaults, of all such persons, and shall have authority to 22 may require the attendance of any person and the examine him 23 under oath relative to such loans or such business or to the 24 subject matter of any examination, investigation, or hearing 25 and shall have authority to may require the production of

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books, accounts, papers, and records. In the event of disobedience to any subpoena or other process issued by the department or failure to produce any books, accounts, papers, and records, the department may invoke the aid of any district court of this state in requiring the evidence and testimony of witnesses and the production of books, accounts, papers, and records.

8 Section 39. Repealer. Section 5-1125, R.C.B. 1947, is
9 repealed.

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1977 Legislature Code Commissioner Bill - Summary

Senate Bill No. 6

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT CORPORATIONS, AND CONSUMER LOAN BUSINESSES.

(This summary does not include discussion of routine form or grammatical changes.)

5-102. The provisions in this section for Section 1. continuation of private banking businesses have been deleted, since according to Les Alke, Financial Division, Department of Business Regulation, there are no longer any private banks. These provisions should have been deleted at the same time the other sections concerning private banks (5-1009 through 5-1011, 5-1013) were repealed in 1975.

The internal reference in this section Section 2. 5-202.1. is incorrect. Section 5-607 was renumbered 82A-407 and merely creates the state banking board, so is not a relevant reference here. Section 5-608 was repealed. Section 5-609 does not appear to be a relevant reference either. Sections 5-610 through 5-614 are the sections actually dealing with authorization of new banks, so the internal reference has been changed as follows: "... in accordance with sections-5-607 5-610 through 5-614."

Section 3. 5-403. Rearranged the contents of the section and added an "or" for clarification as follows: "...whether the liquidation is by the department of-business-regulation, or its deputies and agents...."

The word "corporations" in subsection Section 4. 5-504. (1) (b) and the word "company" in subsection (1) (d) are changed to "bank", since this is what is meant.

Section 5. <u>5-506</u>. Limitation on real estate loans by "commercial" banks. "Commercial" bank is defined in the last sentence of this section as a bank organized to do business



as specified in 5-104 (commercial bank), 5-105 (savings bank), 5-106 (trust company), or 5-107 (investment company). In other words, "commercial" bank in this section does not mean "commercial" bank as defined in 5-104, but any incorporated bank in Title 5, since those four types compose all the permissible types of banks (5-102). Accordingly, the word "commercial" is deleted wherever it appears before "bank", and the definition of commercial bank in this section is deleted.

Section 6. 5-508. Changed the end of the first sentence as follows for grammatical reasons:

"...or other words indicating that:

(i) the place or office is the place or office of a bank or trust company,-or-that;

(ii) deposits are received there or payments made on $check_7$; or

(iii) any other form of banking business is transacted there.

Section 7. <u>5-517</u>. Added an "or" and changed "shall" to "may" for grammatical reasons.

Section 8. <u>5-519</u>. As written, it is unclear in this section as to what "with intent to defraud" applies. The change makes that state of mind applicable to both subsections (1) and (2).

Section 9. <u>5-530</u>. Deleted two "and"s and added "or" for grammatical reasons.

Section 10. <u>5-604</u>. Changed "director of business regulation" to "director of the department of business regulation" to , accurately reflect title.

Section 11. <u>5-609</u>. This section refers to "board" without any indication of which "board" is concerned. This occurred when 5-607, which created a state banking board, was transferred to Title 82A, as 82A-407. The first "board" in 5-609 is changed to "state banking board, authorized in 82A-407."

Section 12. <u>5-610</u>. Changed "director of business regulation" to "director of the department of business regulation" to accurately reflect title.

Section 13. <u>5-611</u>. Changed "this act" to "sections 5-609 through 5-614" which, except for 82A-407, are the code sections currently comprising "this act." There would be no need for rule making authority with regard to 82A-407, since it merely creates the board and states how it will be composed. Section 14. 5-702. Changed "statement" to "report" since it is called a "report" in 5-701 and elsewhere. Deleted "...the attestation of statement by section..." as unnecessary.

Sections 15 and 16. 5-707, 5-802. Deleted "at hard labor", since that terminology is not applicable under the criminal code.

Section 17. <u>5-1002</u>. Changed "of" to "under" for grammatical consistency.

Section 18. <u>5-1019</u>. Changed "and" to "or" for grammatical reasons.

Section 19. <u>5-1021</u>. The language of this section confuses the distinction between corporate mergers (when A merges into B) and consolidations (when A and B consolidate to form \boldsymbol{c}). The section is rewritten to maintain this distinction. The requirement of ratification by shareholders is also clarified.

Section 20. <u>5-1027</u>. Changed "in the matter of" to "concerning" and changed "and for information" to "or information" for grammatical clarity.

Section 21. <u>5-1032</u>. Section is entirely rewritten to correct multiple grammatical errors.

Section 22. <u>5-1039</u>. Changed "also" to "including" and restructured second part of section.

Section 23. <u>5-1055</u>. The references to commercial banks and trust companies as defined in 5-104, 5-105, and 5-106 should also have included 5-107, as investment companies there defined are included in section 5-102 mentioned earlier. Deleted language for clarity and as unnecessary.

Section 24. 5-1106. Changed last "it" to "the department" to clarify who "it" is.

Section 25. <u>5-1115</u>. In (1) changed "his" to "its" before "apportionment". "Superintendent of banks" was deleted and replaced by "department" in 1975, but this pronoun was overlooked in the process.

Section 26. <u>5-1126</u>. Rewritten to clarify meaning. Deleted "upon the court proceedings prescribed in section 5-1107" at the request of the department, since 1) 5-1107 does not require court proceedings in all cases of liquidation, and 2) it already states that approval of the court is required. The entire section is probably obsolete since the Federal Deposit Insurance Corporation is generally named liquidating agent and uses its own funds without any need for borrowing. However, some major study effort would have to be undertaken to overhaul all of the procedure regarding insolvent banks. Section 27. 5-1508. Changed "instrument or transfer or conveyance" in last line to "instrument of transfer or conveyance".

Section 28. <u>7-102</u>. Added "which" for grammatical consistency.

Section 29. 7-112. Changed to eliminate awkward language.

Section 30. 7-139. As written, it is unclear in this section as to what "with intent to defraud" applies. The change makes that state of mind applicable to both subsections (1) and (2).

Section 31. <u>7-156</u>. Changed "in the office or department of this state having supervision of such association" to "with the department" to denote which is the appropriate department. "Department" is defined for Title 7 as "department of business regulation" in 7-101.

Section 32. <u>14-605(2)</u>. Amendments to articles of incorporation are still required to be filed with the secretary of state, so the section is changed to reflect that requirement.

Section 33. <u>14-665(7)</u>. Changed "of" to "or" as follows to correct inadvertent error: "the board of directors of or the liquidating agent shall..."

Section 34. 15-2603(3)(i). Changed "planning and economic development department" to "planning and economic development divisions of the department of community affairs" to reflect current terminology. 15-2603(3)(j). Changed "devices" to "devises".

Section 35. <u>47-209</u>. Changed "licensee" to "license" to correct obvious error.

Section 36. <u>47-211</u>. In (1) deleted "this act" to achieve grammatical clarity.

Section 37. 47-220. Wage assignments. Upon first reading of this section it is difficult to figure out what "such notice" or "notice" is referring to. It appears to be the notice to the employer of the wage assignment. The second paragraph of the section is amended to clarify the section.

Section 38. <u>47-226</u>. Changed "section" to "chapter" to extend authority to entire chapter as was originally intended.

Section 39. <u>5-1125</u>. Repeal. This section states that deposits of public funds are not preferred upon liquidation of the assets of an insolvent bank and is superseded by 5-1114(1)(d) which states the specific priority in liquidation of such claims.

45th Legislature

SB 0006/02

Approved by Committee on Business and Industry

1	SEWATE BILL NO. 6		
2	INTRODUCED BY HAZELBAREE		
3			
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND		
5	CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN		
6	ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT		
7	CORPORATIONS, AND CONSUMER LOAN BUSINESSES."		
8			
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:		
10	Section 1. Section 5-102, R.C.E. 1947, is amended to		
11	read as follows:		
12	"5-102. Institutions to which act is applicable. <u>(1)</u>		
13	The word "Bank" "bank" as used in this as <u>title</u> , shall be		
14	construed to mean <u>means</u> any corporation which shall have <u>has</u>		
15	been incorporated to conduct the business of receiving money		
16	on deposity or transacting a trust or investment business as		
17	hereinafter defined, AS_DEFINED_IB_THIS_TITLE.		
18	(2) The soliciting, receiving, or accepting of money		
19	or its equivalent on deposit as a regular business y-shall be		
20	deemed to be <u>is</u> doing a commercial or savings bank business,		
21	whether such deposit is made subject to check or is		
22	evidenced by a certificate of deposit, a passbook, a note,		
23	or other receipt+, providedy that nothing herein shall apply		
24	<u>applies</u> to or include <u>includes</u> money or its equivalent left		
25	in escrow, or left with an agent pending investment in real		

estate or securities for or on account of his principal. 1 2 (3) It shall be is unlawful for any corporation, 3 partnership, firm, or individual to engage in or transact a banking business within this state, except by means of a 4 5 corporation duly organized for such purpose. [4] Banks are divided into the following classes: 6 7 (a) Connercial Banks, connercial banks; R (b) Savings Banks, savings banks; 9 (c) Trust-Companies, trust companies; 10 (d) Investment Companies, investment companies, 11 provided, further, however, that this act shall not opply to 12 any---persony-firm-or-accoriation-nov-doing-a-private banking 13 14 hereisabeve---referred--te--shall--cone--under--all--ef--the 15 provisions of this-ast which pay be fairly applicable 16 17 (5) This title does not apply to any investment 18 company or corporation, heretofore established prior to 19 March 8, 1927, under authority of the law of Montanay not 20 accepting, receiving, and or holding money on deposit." 21 Section 2. Section 5-202.1, R.C.M. 1947, is amended to 22 read as follows: 23 "5-202.1. Board to refuse or approve application. The 24 board may refuse or approve an application for a certificate of authorization in accordance with sostions 5-607 5-610 25

SECOND READING

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1

2 Section 3. Section 5-403, R.C.H. 1947, is amended to
3 read as follows:

"5-403, Scope of term "liquidating officer" ---4 5 department of business regulation to file inventory with 6 district court - report. (1) For the purpose of this 7 section the term "liquidating officer" includes every person 8 legally espowered to liquidate the business and affairs of a 9 state bank, whether the liquidation is by the department of 10 business regulation or its deputies and agents. The term 11 also includes all receivers of state banks qualified to 12 liquidate a state bank under any law of this state.

13 (2) The liquidating officer of a bank may decide when 14 the assets of a failed bank are not sufficient to pay the 15 debts, contracts, engagements, and liabilities, and he may 16 determine the question of the time when and the court where 17 necessary legal proceedings shall be conducted, subject to 18 the general provisions of law governing venue and place of 19 trial. Por the perpeses of this section the tore 20 21 espowerod-to-liquidato-the-baciness-and-affairs-of--a--state 22 bask-whethor-the-liguidation-is-by-the-department-of 23 basisess-regulation,--its--deputics--and--agents--and--alse 24 isoludeo all-resoivers of state banks qualified to liquidate 25 a-state-bank-under-any-law-of-this-state.

1 <u>(3)</u> The provisions of this chapter do not impose any 2 liability on a stockholder of a bank which is a member of 3 the Federal Doposit Insurance Corporation federal deposit 4 insurance corporation.

(4) The department shall, within minety--(90) days 5 6 after taking charge of an insolvent bank, file with the 7 district court having jurisdiction a complete inventory of all of the property and assets of the insolvent bank, such A 9 as furniture, fixtures, real estate, mortgages, bonds, and notes, secured and unsecured. It shall also every eix-(6) 10 11 months, or more ofteny if required by the court, file with 12 the court a report showing the conditions status of the 13 liquidation of the bank, the assets that have been lignidated and collected, the amounts and manner of payments 14 15 made to creditors, the manner in which claims have been 16 handled, and the assets on hand. The report shall contain 17 other information the court requires, so that the court and 18 the public may be apprised of the condition of the bank and 19 the manner in which it is being liquidated with respect to 20 the collection and sale of assets belonging to the bank and 21 the manner in which claims are being paid. The report and 22 account shall be set for hearing upon the notice the court 23 may require and, if found to be correct, shall be approved 24 by the court."

25 Section 4. Section 5-504, R.C.M. 1947, is amended to

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1 read as follows:

2 "5-504. Real estate which banks may purchase, hold, or
3 convey. (1) A bank organized under the provisions of this
4 act may purchase, hold, or convey real estate which:

5 (a) Is is necessary for the proper transaction of its 6 business, but it shall not invest an amount exceeding fifty 7 per cent (50%) of its paid-up capital and surplus in the lot 8 and building in which the business of the company is carried 9 on, furniture, equipment and fixtures, waults and safety 10 waults, and bores necessary or proper to carry on its 11 banking business:

(b) Is is mortgaged to it in good faith by way of
security for loans previously made or moneys due to the
corporations bank;

15 (c) He is conveyed to it in satisfaction of debts
16 previously contracted in the course of its business;

17 (d) It <u>it</u> purchases at sales under judgments, decrees,
18 or mortgages held by the company bank.

19 (2) Real estate acquired in the manner set forth in 20 subsections (1) (c) and (1) (d) of this section may not be 21 held longer than five (5) years from the date of 22 acquisition, unless special written permission to do so is 23 granted by the department of business regulation. The real 24 estate shall be carried on the books of the bank for an 25 amount not greater than its cost to the bank, including

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costs of foreclosure and other expenses of acquiring title."
 Section 5. Section 5-506, R.C.M. 1947, is amended to
 read as follows:

"5-506. Limitation on real estate loans. (1) A 8 connectial bank organized under the laws of this state may 5 make real estate loans, secured by first liens upon improved 6 7 real estate, including improved farm land and improved business and residential properties, and may purchase an A obligation so secured when the entire amount of the 9 10 obligation is sold to the bank. The amount of the loan may not exceed fifty persont -(50%) of the appraised value of the 11 real estate offered as security, and the loan may not be 12 made for a longer period than five (5) years, except that: 13

14 (a) The the loan may be made in an amount not to erceed sixty-percent-(60%) of the appraised value of the 15 real estate offered as security and for a term not longer 16 17 than twenty-{20} years if the loan is secured by an amortized mortgage, deed of trust, or similar instrument, 18 under the terms of which the installment payments are 19 sufficient to amortize forty-persent-40% or more of the 20 principal of the loan within not more than twenty-(20)-21 years; and 22

(b) A commercial a bank may not make those loans in an
aggregate sum in excess of the amount of its capital stock
paid in and unimpaired plus the amount of its unimpaired

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surplus or in excess of sixty persent (60%) of the amount of
 its time and saving deposits, whichever is greater.

3 (2) Loans made to finance the construction of residential or farm buildings and having maturities of not 8 5 to exceed six (6) wonths, whether or not secured by a 6 mortgage or a similar lien on real estate upon which the 7 residential or farm building is being constructed. are not loans secured by real estate within the meaning of this 8 9 section- but shall be classed as ordinary commercial loans. 10 A comporcial bank may not invest in or be liable on any of those loans in an aggregate amount in excess of fifty 11 12 13 capital.

14 (3) Loans made to establish rural or commercial 15 businesses, which are in whole or in part discounted or 16 loaned against as security by a federal reserve bank for any part of which a counitment has been made by a federal 17 18 reserve bank or in which an agency of the federal government co-operated cooperated 19 ог purchases purchased a participation in, are not subject to the restrictions or 20 21 limitations of this section upon loans secured by real 22 estate. A segmersial bank in this state has from time to 23 time the same authority to make loans upon real estate which 24 may be given by acts of Congress congress or the federal 25 reserve system to national banks or bank members of the

federal reserve system.

2 (4) The limitations and restrictions imposed by this section do not prevent the renewal or extension of loans 3 made before February 18, 1941, and do not apply to real 2 estate loans which are insured under the provisions of any 5 act of Generess congress. Those limitations and restrictions 6 7 do not apply to the making, extension, or renewal of any loans made under subchapter II of the act of Gengress 8 congress known as the Servicemen's Readjustment Act of 1944, 9 or any agendment or supplement to that act. 10

(5) This section, however, does not prevent a bank 11 12 from taking another and immediately subsequent mortgage or 13 deed of trust when it already holds a first mortgage or deed 14 of trust on the real estate, or from accepting a second lien 15 on real estate to secure the repayment of a debt previously 16 contracted in good faith. These provisions do not prevent 17 subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith, when, 18 in the judgment of the directors of the bank, the subsequent 19 liens are necessary further to secure the payment of any 20 21 debts and save the bank from loss. "Compersial bank" as 22 aged in this section scans a bask organized to do ... only -- the 23 business-specified in sections 5 104 to 5 107." 24 Section 6. Section 5-508, R.C.H. 1947, is amended to

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25 read as follows:

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*5-508. Busipess-prohibited-upless-upder-department---1 uce of cortain-words prohibited court--may--onioin When 2 advertising as bank prohibited - trade mames restricted. 3 (1) A person, firm, company, sopartnership partnership, or 8 5 corporation, either domestic or foreign, not subject to the supervision of the department, and not required by the 6 7 provisions of this act to report to it, and which has not received a certificate to do a banking business from the 8 9 department, may not:

10 (a) advertise that he or it is receiving or accepting 11 money or savings for deposit, investment, or otherwise, and 12 issuing notices or certificates of deposit therefor; or 13 (b) use an office sign, at the place where the

14 business is transacted, having on it an artificial or 15 corporate name, or other words indicating that:

16 (i) the place or office is the place or office of a
17 bank or trust company;

18 or that (ii) deposits are received there or payments
 19 made on wheat CHECKSy; or

20 <u>(iii)</u> any other form of banking business is transacted
21 <u>there</u>.

22 (2) That person, or --persons, firm, company,
23 copartmonship partmenship, or corporation, domestic or
24 foreign, may not use or circulate letterheads, bill-heads
25 billheads, blank notes, blank receipts, certificates, or

circulars, or any written or printed or partly written and
partly printed paper, whatever, having on them an artificial
or corporate name or other word or words indicating that the
business is the business of a bank, savings bank, or trust
or investment company.

6 (3) That person, firm, company, Gopartnership partnership, or corporation, or any agent of a foreign 7 8 corporation, not having an established place of business in 9 the state, may not solicit or receive deposits or transact 10 business in the way or manner of a bank, savings bank, trust, or investment company, or in a manner which leads 11 12 the public to believe that its business is that of a bank. 13 savings bank, trust, or investment company.

14 person, firm, <u>(4)</u> company, **Gopartaership** 15 partnership, or corporation, domestic or foreign, not 16 subject to the supervision of the department, and not 17 required by the provisions of this act to report to ity and 18 which has not received from the department a certificate to 19 do a banking business, may not transact business under a 20 name or title which contains the word "banky", "bankery", 21 "banking", "savings bank", "saving", "trusty", 22 "trusteer", "trust company,", or "investment company,",

23 (5) A person, firm, company, copartmership
24 partmership, or corporation, domestic or foreign, violating
25 a provision of this section shall forfeit to the state one

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hundred dollars (\$100) a day for every day or part of a day
 during which the violation continues.

3 (6) Opon suit by the department, the court may issue 4 an injunction restraining that person, firm, company, separtnership partnership, or corporation during pendency of 5 6 the action_and permanently from further using those words in 7 violation of the provisions of this section, or from further 8 transacting business in a manner which leads the public to 9 believe that its business is that of a bank, savings bank, 10 trust, or investment company, during the pendency of the action and persanently, and may enter any other order or 11 12 decree as equity and justice require."

13 Section 7. Section 5-517, B.C.E. 1947, is amended to
14 read as follows:

15 "5-517. Limit on amount of bond issue. No commercial 16 bank shall may purchase, agree to purchase, or underwrite 17 any bond issue in excess of ten-por-centus 10% of its 18 assets, except bonds of the United States, of the state of 19 Hontana, or of the cities, towns, counties, or school 20 districts of this state."

Section 8. Section 5-519, k.C.M. 1947, is amended to
read as follows:

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1 employee of a bank <u>is quilty of a felony</u> who:

2 (1) <u>Knowingly knowingly</u> receives or possesses himself
3 of any of its property, otherwise than in payment for a just
4 demand, and with intent to defraud₇:

5 (a) omits to make or to cause or direct to be made a
6 full and true entry of it in its books and account; or

7 (2) (b) Concurs in omitting to make any
8 material entry thereof; OFF

9 (3) (2) Knowingly knowingly concurs in making or
 10 publishing any written report, exhibit, or statement of its
 11 affairs or pecuniary condition, containing any material
 12 statement which is false; or,

13 (4)(3) Having having the custody or control of its 14 books, willfully refuses or neglects to make a proper entry 15 in the books of that corporation as required by law, or to 16 exhibit them, or allow them to be inspected and extracts to 17 be taken from them by the department, is guilty of a 18 felomy.*

19 Section 9. Section 5-530, R.C.H. 1947, is amended to20 read as follows:

21 **5-530. Deposit by minor. Whenever any deposit shall
22 be made in any bank, and by and or in the name of any minor,
23 the same shall be held for the exclusive right and benefit
24 of such minor, and free from the control or lien of all
25 persons whatsoever, except creditors, and shall be paid,

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with any interest due thereon, to the person in whose name
 the deposit shall have been was made, and the receipt of
 such minor shall be is a sufficient release or discharge for
 such deposit to the bank."

5 Section 10. Section 5-604, R.C.H. 1947, is amended to
6 read as follows:

7 "5-604. Director of business regulation and employees
8 not to be interested in banks. Neither the director of the
9 department of business regulation mor any bank examiner may
10 be interested in or a borrower from any state bank, directly
11 or indirectly."

Section 11. Section 5-609, R.C.N. 1947, is amended to
read as follows:

14 "5-609. Secretary State banking board - secretary of
15 beard - meetings of board - per diem quorum romunoration.
16 (1) The board state banking board, established by 82A-407.
17 shall elect from its members a secretary to serve at the
18 pleasure of the board.

19 (2) In performing its functions the board shall have
20 use of the offices, equipment, and personnel of the
21 department of business-regulation as it requires.

22 (3) The board shall hold regular meetings each guarter at a fixed date and time at the office of the department of buoiness-regulation. Special meetings may be called at any time by the chairman upon three-(3)-days days! notice to the 1 members.

2 (4) A quorum for all meetings shall be a majority of
3 the board members, and action may be taken by a majority of
4 the quorum present at any meeting.

5 <u>(5)</u> The chairman shall have a voice but no vote in all 6 meetings except to break a tie.

7 <u>(6)</u> Any board member except the chairman may be 8 removed by the governor without cause in any case.

9 (7) The board members, except the chairman, shall be 10 paid twenty-five dellars (\$25) per day or any part thereof 11 devoted to the performance of their duties, and actual and 12 reasonable expenses incurred in the performance of their 13 duties and mileage as provided by law to state officers. The 14 costs and expenses of the board shall be legitimate charges

15 of the department of-business-regulation."

Section 12. Section 5-610, B.C.H. 1947, is amended to
read as follows:

18 "5-610. Powers <u>and duties</u> of board. The state banking
19 board shall:

20 (1) make final determinations upon applications for
21 certificates of authorization for new banks, mergers,
22 consolidations, and relocations of banks;

(2) act in an advisory capacity with respect to the
 duties and powers given by statute or otherwise to the
 director of the department of business regulation as said

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1 <u>the</u> duties and powers relate to banking."

2 Section 13. Section 5-611, R.C.H. 1947, is amended to
3 read as follows:

Ħ *5-611. Rules adopted by board -- new banks. The board 5 shall adopt rules necessary for the administration of this ast 5-609 through 5-614 in accordance with the Sontana 6 7 Administrative Procedure Act [-82-4201-to-82-4225]. In R particular, the board shall adopt rules concerning the 9 authorization of new banks. Such rules shall contain siniaus standards under which an application for a new bank 10 shall be determined, including the following: 11

12 (1) a persuasive showing that there is a reasonable
13 public necessity and demand for a new bank at the proposed
14 location;

(2) that the bank will be owned and managed by persons
of good moral character and financial integrity, and will be
safely and soundly operated;

18 (3) a persuasive showing that the new bank will have a
19 sufficient volume of business to assure solvency and that
20 establishment of the new bank will be in the public
21 interest."

22 Section 14. Section 5-702, R.C.H. 1947, is amended to
23 read as follows:

24 "5-702. Report of declaration of dividend. In addition
25 to the statement report required by section 5-701, a bank

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shall report to the department within ten--(10) days after
 declaring any dividend, showing the amount of the dividend
 and the amount of net earnings in excess of the dividend.
 The statement report shall be attested as provided for in
 the attestation of statement by section 5-701."

6 Section 15. Section 5-707, R.C.M. 1947, is amended to
7 read as follows:

8 *5-707. False statements and entries deemed considered felony. Every officer or other person authorized by this 9 10 act, who willfully and knowingly makes any false statement 11 of facts, statement of account, or report- and every 12 officer, agent, or clerk of any bank who willfully and 13 knowingly makes any false entries in the books of such banky 14 or knowingly subscribes or exhibits false papers- with the 15 intent to deceive any person authorized to examine such 16 bank, and every person authorized by the provisions of this 17 act to make statements or reports, who willfully and 18 knowingly subscribes or makes any false statement or report. 19 shall be deemed is guilty of a felony, and, upon conviction 20 thereofy shall be imprisoned at-hard-labor in the state 21 prison for a term of not less than one-(1) nor or more than 22 ten-{10} years."

23 Section 16. Section 5-802, R.C.M. 1947, is amended to
24 read as follows:

25 "5-802. Penalty for receiving deposits when insolventy

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1 or for making false statements. Any officer, agent, or clerk of any bank, knowing such bank to be insolvent, who receives 2 3 money, bank bills, notes of the United States, or currency, or other bills or drafts circulating as money or currency, 4 5 except in the manner set forth in the succeeding section r_{1} or who subscribes or makes any false statements or entries 6 in the books of such banky-or; knowingly subscribes or 7 exhibits any false paper with the intent to deceive any 8 9 person authorized to examine as to the condition of such bankr: or willfully subscribes or makes false reports, shall 10 be is subject to imprisonment at hard labor in the state 11 prison for a term not exceeding five-(5) years." 12

13 Section 17. Section 5-1002, R.C.M. 1947, is amended to
14 read as follows:

15 #5-1002. Change from state to national bank. Any bank 16 may become a corporation for the purpose of carrying on the 17 business of banking in this state, under the act of Congress 18 congress "to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation 19 and redemption thereof,", approved June 3, 1864, and of 20 21 under Title 52 of the Revised Statutes of the United States. 22 when stockholders owning two-thirds (2/3) of the stock of 23 the bank have voted to become such corporation γ or have executed a written consent authorizing its directors to make 24 the certificate required therefor by the laws of the United 25

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1 States, or when a majority of the directors of the bank. 2 having been authorized in their discretion to make the 3 change, shall, by a vote of the majority, decide to become ā. such corporation. The cashier of the bank shall publish 5 notice thereof for thirty (30) days in the newspaper which 6 the directors selecty and send a like printed notice by mail 7 or otherwise to all nonvoting or dissenting stockholders, and notify the department of business regulation that the 8 9 bank has decided to become a corporation under the laws of the United States." 10

Section 18. Section 5-1019, R.C.H. 1947, is amended to
read as follows:

13 "5-1019. Special examination defined. In <u>A special</u> 14 <u>examination is an</u> examination made by the department 15 otherwise than in the ordinary routine of the department_y 16 and because, in its opinion, the condition of the bank 17 requires the examination, and <u>or</u> an examination made at the 18 request of the board of directors or stockholders of a bank_y 19 is a special examination."

20 Section 19. Section 5-1021, B.C.H. 1947, is amended to 21 read as follows:

*5-1021. Consolidation or merger of banks. (1) The
 words "bank" or "banks" as used in this section include
 commercial banks, savings banks, trust companies, investment
 companies, and other such corporations carrying on the

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business of banking, trust company, or investment company

2 under the laws of this state or doing business in this state
3 under the national banking laws of the United States.

1

4 (2) Any two or more banks doing business in this 5 state, may, with the approval of the state banking board, in 6 the case of state banks, consolidate, join and or merge into 7 one bank underg-into and with the charter of either existing bank hereinafter-referred-to-as-the--senselidated-bank, on в 9 such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each bank proposing 10 11 to consolidate, and be retified and confirmed or morge. 12 Such consolidation or merger, before it becomes effective, 13 anst be ratified by the consent in writing of the shareholders of each such bank owning at least two-thirds of 14 15 its capital stock outstanding, provided, that the capital stock of such consolidated or merged bank shall may not be 16 17 less than that required under existing law for the 18 organization of a bank of the class of the largest of the 19 banks so consolidating.

20 <u>(3)</u> Upon such consolidation <u>or merger</u>, the corporate 21 franchise, corporate life, being, and existence, and the 22 corporate rights, powers, duties, privileges, franchises, 23 and obligations, including the rights, powers, duties, 24 privileges, and obligations as trustee, executor, 25 administrator, guardian, and all and every right, power,

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1 duty, privilege, and obligation as fiduciary, together with title to every species of property, real, personal, and 2 mixed, of such consolidating or merging bank and banks 3 shall, without the necessity of any instrument of transfer, ੰ be-and become consolidated or merged and continued in and 5 held, enjoyed, and/or assumed by the consolidated <u>or merged</u> 6 bank, and such consolidated bank shall have and enjoy the 7 right equal as to priorities with any other applicant to 8 appointment by the courts to the offices of executor, 9 administrator, guardian, and/or trustee under any will or 10 other instrument made prior to such consolidation or merger 11 12 and by which will or instrument such consolidating or merging bank was nominated by the maker to such office. 13 14 The word Thank or Thanks" as used -is -this -- section. 15 16 17 corporations carrying on the business of banking, trust company or invostment company under the laws of ... this ... state 18 or-doing-business-in-this-state-under-the-national banking 19 lave of the United States." 20 Section 20. Section 5-1027, B.C.H. 1947, is amended to 21 22 read as follows: #5-1027. Department may make rules. The department 23

24 shall have the authority to make and may promulgate
25 reasonable rules and orders in the matter of <u>concerning</u>

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bookkeeping and accounting by state banks, including the
 keeping of reasonable credit information, or information in
 connection with assets, and for or information in connection
 with observed off charged-off items."

5 Section 21. Section 5-1032, R.C.H. 1947, is amended to
6 read as follows:

7 "5-1032. Bonding of employees. (1) It-shall-be-the 8 duty-of the The board of directors of every bank to shall 9 require that all officers and employees of banks whose duty 10 includes the handling of moneys, notes, bonds, credits, and 11 cash items, and whose duties include bookkeeping and/or the 12 making of entries in relation to the business of the bank 13 and its customers, be bonded.

[2] The board of directors shall by order dely entered 14 upon the minutes minute books of the board designate the 15 officers and employees to be bonded and the amount of bonds 16 17 to be given. Such action as to the personnel, and the amount 18 of bonds, and the surety company or sureties to be is subject to approval by the department, and the bonds be19 shall be in such form as shall be is provided or approved by 20 21 the department.

22 (3) the The bonds to shall be approved by the
23 president of the bank and his action reported to the board
24 of directorst.

25 (4) all hll bonds required by this section to shall be

kept in the custody of the bank subject to inspection by
 examiners from the department; provided, as far as possible,
 they shall may not be placed in the custody of the officer
 or employee for whom the same is given."

5 Section 22. Section 5-1039, B.C.M. 1947, is amended to
6 read as follows:

7 "5-1039. Giving security for deposit prohibited ---8 exceptions. It shall be is unlawful for any bank to pledge, mortgage, or hypothecate to any depositor any of its real or 9 personal property as security for any deposit, and any 10 11 pledge, mortgage, or hypothecation made in violation thereof 12 shall be is uneaforceable; provided, -- however, -- that -- this 13 This provision shall does not apply to any deposits of money 14 of the United States, and public funds deposited in 15 accordance with the provisions of any depository act of this 16 state, or the United States, or bankruptcy estate funds or deposits, also including deposits of receivers or trustees 17 18 in bankruptcy, deposited under the direction and supervision 19 of a court of record of the state of Montana or of the 20 United States." 21 Section 23. Section 5-1055, R.C.H. 1947, is amended to

22 read as follows:

23 "5-1055. Closing on Saturdays authorized — Saturday
24 treated as holiday. Any banky-which-term for the purposes of
25 this act-shall scan-any-corporation as defined in section

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1 2 sore particularly defined in costions 5-104. 5-105 and 3 5-106, and any national bank or national banking association 4 incorporated or organized under the laws of the United 5 States of America and any federal reserve bank may, at its 6 election, remain closed and refrain from the transaction of 7 any business on Saturdaysy, and any <u>Any</u> Saturday on which 8 any such bank remains closed shall be, with respect to such 9 bank, a holiday and not a business day. Any act, authorized, 10 required, or permitted to be performed <u>on a Satur</u>day at or 11 by, or with respect to any bank as herein defined, including 12 any national bank or national banking association, and any 13 federal reserve bank, on a Saturday, may be performed on the 14 next succeeding business day, and no liability or loss of 15 any rights of any kind shall result from such closing on 16 Saturday, or from the nonopening of any bank for the 17 transaction of business on any Saturday under the authority 18 of this act, for the transaction of business."

19 Section 24. Section 5-1106, R.C.M. 1947, is amended to20 read as follows:

21 "5-1106. Resumption after closing. After the
22 department has taken possession of a bank, it may permit
23 that bank to resume business upon conditions which may be
24 approved by it the department."

25 Section 25. Section 5-1115, R.C.H. 1947, is amended to

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1 read as follows:

2 *5-1115. Claims — partial payments. (1) The 3 department need not await the expiration of the time allowed a for filing claims, as fixed in the notice to the creditors, 5 for the payment of dividends. It may, in its discretion, and 6 if under the circumstances of the particular case it 7 considers it expedient and safe, at any time after taking 8 possession of the bank and prior to the expiration of the 9 period fixed for filing of claims, if it has on hand in cash 10 sufficient funds over and above the expenses of liquidation. 11 make pro rata distribution to any class of creditors next 12 entitled to distribution, in the order of priority fixed in 13 this chapter, making that payment to the creditors as they 14 appear on the books and records of the bank and determining 15 the priority and basing his its apportionment on the amount 16 shown to be due by the books and records.

17 (2) At any time after the expiration of the date fixed 18 for the presentation of claims against the bank and from 19 time to time thereafter, when, in its discretion, there are 20 sufficient funds available, the department shall, after 21 making proper provisions for the payment of expenses of liquidation, declare and pay dividends to all creditors of 22 23 the bank pro rata in the order of their priority. If, after 24 the time fixed for presentation of claims against the bank 25 has expired, it appears that a person, prior to the

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expiration of the periody or at any other time, has been
 paid more than the provide provide amount due him as
 compared with the amounts then paid other creditors, nothing
 more may be paid that creditor until the payment made other
 creditors places them on equal footing.

6 (3) In calculating dividends, all disputed claims and 7 deposits shall be taken into account and the amount of 8 dividends upon the disputed claims or deposits shall be held 9 by the department until the validity of those claims or 10 deposits has been finally determined.

(4) Claims against a bank in process of liquidation 11 may be assigned in whole or in part subject to the approval 12 13 of the department. Assignments of claims are binding upon the department only after they have been filed and allowed 14 15 by the departmenty and only then are subject to the payment of the assignor's liabilities to the bank. An assignment 16 17 shall be made by filing written notice, signed by the original claimant, with the department or person in charge 18 of the bank. No assigned claims may be offset against 19 obligations due the bank. A check or draft drawn against a 20 bank closed or taken possession of by the department, 21 whether issued before or after closing, shall may not be 22 23 recognized as a claim against the $bank_{T}$ or as an assignment of any amount, whether protested or not protested." 24

25 Section 26. Section 5-1126, R.C.M. 1947, is amended to

read as follows: 1 *5-1126. Power of closed banks to borrow money from 2 з governmental agencies. After applying to and obtaining the approval of the department and the district court of the а 5 county in which the bank or trust or investment company is 6 located, and Notwithstanding notwithstanding any other law, 7 the liquidating agents of closed banks may borrow money from an agency of the federal government on behalf of commercial 8 9 banks, savings banks, trust companies, and investment 10 companies closed and in liquidation, and, as as security for the loan the liquidating agent may pledge or mortgage 11 the assets and properties thereofy for the purpose of paying 12 depositors or creditors in part or in fully---after---applying 13 to--and--obtaining--tho---approval-of-the--department-and-the 14 district...court of the cousty in which the banky or trast---or 15 investment--company-is-located, upon the court proceedings 16 17 prescribed in section 5-1107." 18 Section 27. Section 5-1508, R.C.M. 1947, is amended to read as follows: 19 "5-1508. Transfer of fiduciary relationships between 20 affiliated banks. (1) Any bank which has received approvaly 21

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pursuant to section 6 [5-1506] to maintain a trust office in

the same building with the main office of any affiliated

bank may file its verified application in the district court

of the county in which its main office is located requesting

1 that it be substituted, except as may be expressly excluded in such application, in every fiduciary capacity for such 2 affiliated bank, and such affiliated bank shall join in such 3 application. Such application shall indicate the county 4 wherein the main office of such affiliated bank is located 5 and shall designate each fiduciary account existing at the 6 date thereof with respect to which the applicant bank 7 requests substitution, but fiduciary capacities in other 8 9 cases need not be listed. Such application shall additionally set forth, with regard to each existing 10 fiduciary account designated therein, the name and address 11 12 last known to the applicant of each person entitled to 13 mailed notice of hearing thereon, who shall be those persons 14 specified in subsections (1) (a) to through (1) (e) τ inclusive, of section 5-1507. 15

16 (2) When any such application shall—have bas been
17 filed, the clerk of the court where filed shall make an
18 order fixing a date and time for hearing thereon and shall
19 cause notice thereof to be given by publication and mailing
20 in the manner required by section 5-1507.

21 (3) The notice to be published and mailed with respect 22 to each such application shall state the time and place of 23 the hearing thereon, the name of the bank which has filed 24 the application, the name of the affiliated bank which has 25 joined in such application, that the application requests

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that the applicant bank be substituted in every fiduciary 1 capacity for the affiliated bank specified in the 2 application, and that any person beneficially interested in Э any affected fiduciary account may appear on or before the ш date of hearing and file his written objection to such 5 substitution as to such affected fiduciary account, and such 6 notice shall refer to such application for further 7 particulars. в

9 (4) On or before the date and time of hearing any such
10 application, any person beneficially interested in any
11 fiduciary account as to which substitution of the applicant
12 bank is requested, may appear and file objection to
13 substitution, and shall be entitled to be heard with respect
14 to such objection.

(5) On such date of hearing, upon finding that due 15 16 notice has been given as required by this act and upon finding that the applicant bank has received the reguisite 17 approval from the department of business regulation, or the 18 comptroller of the currency if the applicant bank is a 19 national banking association, the district court shall enter 20 21 an order substituting the applicant bank in every fiduciary capacity for the affiliated bank designated in the 22 application, excepting as may be otherwise specified in the 23 application, and excepting fiduciary capacities in any 24 account with respect to which an objection has been filed 25

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pursuant to this section. Upon entry of such order, the 1 applicant bank shall, without further act, be substituted in 2 every such fiduciary capacity. Such substitution may be 3 made a matter of record in any county of this state by 4 filing a certified copy of the order of substitution in the 5 office of the clerk of any district court in this state or 6 by filing a certified copy of such order in the office of 7 the clerk and recorder of any county in this state to be by 8 such officer recorded and indexed in like manner and with 9 like effect as other orders and decrees of court are 10 11 recorded and indexed.

(6) Each designation, in a will or other instrument 12 heretofore or hereafter executed, of a bank as fiduciary 13 shall be deemed a designation of the applicant bank 14 15 substituted for such bank pursuant to this section except where such will or other instrument is executed after such 16 substitution and expressly negates the application of this 17 18 section. Any grant in any such will or other such instrument of any discretionary power shall be deemed 19 conferred upon the applicant bank deemed designated as the 20 21 fiduciary pursuant to this section.

22 (7) A bank shall account jointly with the applicant
23 bank which has been substituted as fiduciary for such bank
24 pursuant to this section for the accounting period during
25 which the applicant bank is initially so substituted. Open

substitution pursuant to this section, the affiliated bank 1 2 for which substitution has been made shall deliver to such 3 applicant bank all assets held by such affiliated bank as fiduciary (except assets held for accounts with respect of а which there has been no substitution pursuant to this 5 section) and upon such substitution all such assets shall 6 7 become the property of such applicant bank without the necessity of any instrument or of transfer or conveyance." 8

9 Section 28. Section 7-102, R.C.H. 1947, is amended to
10 read as follows:

"7-102. Articles of incorporation -- contents. 11 12 Whenever any number of persons, not less than five (5), 13 shall desire to incorporate a building and loan association. 14 having for its object the conduct and operation of such an 15 association as defined in this act, they shall prepare and file articles of incorporation to that effect in the manner 16 17 specified in this act, specified; such articles shall 18 be signed, sealed, and acknowledged in the form now provided by the statutes of this state for the conveyance of real 19 20 estate, and shall include the following:

21 <u>1+(1)</u> The the name of the association. The name shall
22 which may not be the same as, not closely resemble,
23 that in use by any existing corporation established under
24 the laws of this state. The words "building and loan
25 association" or "sayings and loan association" shall form a

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part of the name, and the a corporation not organized under
 this act chall-be catitled to may not use a name embodying
 said that combination of wordst, provided, that the
 associations new existing as of May 1, 1927, may continue
 their present namest,

6 2-(2) The the principal office, or place of business
7 of the association <u>which</u> shall be within this state;

8 3.(3) The the amount of its capital stock and the
9 number of shares into which the same shall be divided; such
10 The capital stock shall be divided into shares having a par
11 value of one-bundred dollars (\$100,00);

12 4-(4) # a provision that such association is organized 13 under this act for the purposes herein expressed;

14 $\frac{5_{\tau}(5)}{5_{\tau}(5)}$ The the names and residences of the persons who 15 subscribed and acknowledged the said declaration, a majority 16 of whom shall be citizens of this state₇ and shall 17 thereafter be called incorporators."

18 Section 29. Section 7-112, B.C.M. 1947, is amended to
19 read as follows:

20 "7-112. Proxies. At least once every year the board of
21 directors of every building and loan association shall, by
22 resolution, direct cause the secretary of such association
23 and he shall to wery stockholder of such
24 association a blank form of proxy, and the stockholder shall
25 have the right and privilege of withdrawing may withdraw his

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former proxy and of substituting substitute another in its
 stead. Every proxy shall continue in force and be binding
 upon the stockholder until such proxy is revoked or an
 another substituted."

5 Section 30. Section 7-139, B.C.M. 1947, is amended to
6 read as follows:

7 "7-139. Obtaining property by fraudy <u>—</u> false reporty 8 <u>—</u> refusal to permit inspection of books. A director, 9 officer, agent, or employee of a building and loan 10 association <u>is quilty of a felony</u> who:

(1) Willfully villfully receives or possesses any of
 its property, otherwise than in payment for a just demand,
 and with intent to defraudy:

14 (a) omits to make or direct directs to be made a full
15 and true entry of it in its books and accounts;

16 (2)(b) Concers in omitting to make a material 17 entry thereof;

18 (3)(2) Willfully willfully makes or concurs in making
19 or publishing a written report, exhibit, or statement of the
20 association's affairs or pecuniary condition, containing any
21 material statement which is false; or

22 (4) (3) Having having the custody or control of the 23 association's books, willfully refuses or neglects to make a 24 proper entry in the books as required by lawy or to exhibity 25 or allow them to be inspected and extracts to be taken from

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to

1	them by the department is guilty of a folony ."
2	Section 31. Section 7-156, R.C.M. 1947, is amended to
3	read as follows:
4	7-156. Conversion of-building-and-loam-and-other home
5	financinginstitutions into federal savings and loan
6	associations. Any building and loan association or other

home financing organization, by whatever name or style it 7 may be designated, eligible to become a federal savings and а loan association way convert itself into a federal savings 9 and loan association by following the procedure hereinafter 10 11 outlined.

 $A_{\mathbf{r}}(1)$ At any regular meeting of the shareholders of 12 13 any such association or at any special meeting of the shareholders of such association, in either case called to 14 15 consider such action and held in accordance with the laws 16 governing such association, such shareholders, by an 17 affirmative vote of the majority of said the shareholders, in person or by proxy, may declare by resolution the 18 determination to convert said the association into a federal 19 20 savings and loan association.

21 Br(2) A copy of the minutes of such the meeting of the 22 shareholders verified by the affidavit of the president or 23 vice-president and the secretary of the meeting shall be filed with the department of business regulation within ten 24 25 10 days after said the meeting, in the effice or department

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1 of this state having supervision of such association. Such 2 The verified copy of the minutes of such meeting when so 3 filed shall be presunctive evidence of the holding and of h the action of such meeting.

5 Gr (3) Within a reasonable time and without any 6 unnecessary delay after the adjournment of such meeting of 7 shareholders, such association shall take such any action as may be necessary to make it a federal savings and loan я association, and within ton 10 days after receipt of the 9 10 federal charter there shall be filed in-the office of 11 department--of--this--state--having--supervision--of----sup association with the department of business regulation a 12 13 copy of said the charter issued to such association by the 14 federal home loan bank board or a certificate showing the 15 organization of such association as a federal savings and 16 loan association certified by, or on behalf of, the federal home loan bank board. Upon the filing of such instrument 17 such association shall cease to be a state association and 18 shall thereafter be a federal savings and loan association." 19 Section 32. Section 14-605, R.C.M. 1947, is amended to 20 21 read as follows:

#14-605. Amendments. (1) The articles of incorporation 22 or the bylaws may be amended as provided in the bylaws. 23 Amendments to the articles of incorporation or bylaws shall 24 be submitted to the director of the department of business 25

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regulation who shall approve or disapprove the amendments
 within simty (60) days.

3 (2) Amendments shall become effective upon:

4 (a) approval in writing by the director, and for which
5 no fee shall may be charged; for such approval, and

6 <u>(b)</u> <u>IN THE CASE OF ARTICLES OF INCORPORATION filing</u> 7 with the secretary of state."

8 Section 33. Section 14-665, R.C.M. 1947, is amended to
9 read as follows:

10 "14-665. Liquidation. (1) A credit union may elect to
11 dissolve voluntarily and liquidate its affairs in the manner
12 prescribed in this section and the applicable Montana
13 corporation laws.

14 (2) The board of directors shall adopt a resolution 15 recommending the credit union be dissolved voluntarily, and 16 directing that the question of liquidation be submitted to 17 the members.

(3) Within ten-(10) days after the board of directors 18 19 decides to submit the guestion of liquidation to the 20 members, the president shall notify the director of the 21 department of business regulation thereof in writing, 22 setting forth the reasons for the proposed action. Within 23 24 liquidation, the president shall notify the director in 25 writing as to whether or not the members approved the

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1 proposed liquidation.

2 (4) As soon as the board of directors decides to submit the question of liquidation to the members, payment 2 on shares, withdrawal of shares, making any transfer of shares to loans and interest, making investments of any 5 kind, and granting loans shall be suspended pending action 6 by members on the proposal to liquidate. On approval by the 7 8 members of such proposal, all such business transactions shall be permanently discontinued. Mecessary expenses of 9 operation shall, however, continue to be paid on 10 authorization of the board of directors or liquidating agent 11 during the period of liquidation. 12

(5) For a credit union to enter voluntary liquidation, 13 approval by a majority of the members in writing or by a 14 two-thirds (2/3) majority of the members present at a 15 regular or special meeting of the members is required. Where 16 17 If authorization for liquidation is to be obtained at a 18 meeting of the members, notice in writing shall be given to 19 each member, by first-class first-class mail, at least tem 20 410+ days prior to such meeting.

(6) A liquidating credit union shall continue in
existence for the purpose of discharging its debts,
collecting and distributing its assets, and doing all acts
required in order to wind up its business and may sue and be
sued for the purpose of enforcing such debts and obligations

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1 until its affairs are fully adjusted.

2 (7) The board of directors of or the liquidating agent
3 shall use the assets of the credit union to pay:

4 (a) expenses incidental to liquidating, including any
5 surety bond that may be required;

6 (b) any liability due nonmembers; and

7 (c) special purpose thrift accounts as provided in
8 this act. Assets then remaining shall be distributed to the
9 members proportionately to the shares held by each member as
10 of the date dissolution was woted.

(8) As soon as the board of directors or the 11 liquidating agent determines that all assets from which 12 there is a reasonable expectancy of realization have been 13 14 liquidated and distributed as set forth in this section, they he shall execute a certificate of dissolution on a form 15 prescribed by the department of business regulation and file 16 17 the same with the department, together with all pertinent 18 books and records of the liquidating credit union, with the department of business regulation whereupon such credit 19 20 union shall be dissolved."

21 Section 34. Section 15-2603, R.C.M. 1947, is amended
22 to read as follows:

23 #15-2603. Incorporators — general powers — capital
24 stock — articles of incorporation. Nine (9) or more
25 persons, a majority of whom shall be residents of this

state, who may desire to create a development credit
 corporation under the provisions of this act, for the
 purpose of promoting, developing, and advancing the
 prosperity and economic welfare of the state and, to that
 end, to exercise the powers and privileges hereinafter
 provided, may be incorporated in the following manner:

7 (1) such Such persons shall by articles of
8 incorporation filed in the manner prescribed in Title 15 of
9 the Revised Codes of Montana 1947, under their hands and
10 seals, set forth:

11 (1) (a) The the name of the corporation, which shall
12 include the words "Development Credit Corporation of
13 Bontana_v":

14 (2) (b) The the location of the principal office of the
15 corporation, but such corporation may have offices in such
16 other places within the state as may be fixed by the board
17 of directors;

18 (3)(c) The -- purpose the purposes for which the
 19 corporation is founded, which shall include the following:

20 (a) (i) To to elect, appoint, and employ officers,
21 agents, and employees;

22 (ii) to make contracts and incur liabilities for any of 23 the purposes of the corporation; provided, that the 24 corporation shall may not incur any secondary liability by 25 way of guaranty or endorsement of obligations of any person,

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firm, corporation, joint-stock company, association, or
trust, or in any other manner;

3 (111) To to borrow money from the members, nonwember ta. persons, firms, or corporations, and state and federal 5 agencies, for any of the purposes of the corporation; to 6 issue therefor its bonds, debentures, notes, or other 7 evidences of indebtedness, whether secured or unsecured, and 8 to secure the same by mortgage, pledge, deed of trust, or 9 other lien on its property, franchises, rights, and 10 privileges of every kind and nature or any part thereof or 11 interest therein, without securing stockholder or member 12 approval; provided, that no loan to the corporation shall 13 may be secured in any manner unless all outstanding loans to 14 the corporation shall be are secured equally and ratably in proportion to the unpaid balance of such loans and in the 15 16 same manner.;

17 (c) (iv) to make loans to any person, firm, 18 corporation, joint-stock company, association, or trust- and 19 to establish and regulate the terms and conditions with 20 respect to any such loans and the charges for interest and 21 service connected therewith; provided, however, that the 22 corporation shall may not approve any application for a loan 23 unless and until the person applying for said the loan shall show shows that he has applied for the loan through ordinary 24 25 banking channels and that the loan has been refused by at

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1 least one bank or other financial institution-:

2 (d)(v) To to participate with any duly authorized
3 private lending agency, and city, state, and federal
4 governmental lending agencies in the making of loans-:

5 (vi) To to purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease, or 6 7 otherwise dispose of real and personal property, together 8 with such rights and privileges as may be incidental and 9 appurtenant thereto and the use thereof, including, but not 10 restricted to, any real or personal property acquired by the 11 corporation from time to time in the satisfaction of debts 12 or enforcement of obligations-;

13 (f) (vii) To to acquire the good will, business, rights, 14 real and personal property, and other assets, or any part 15 thereof, or interest therein, of any persons, firms, 16 corporations, joint-stock companies, associations, or 17 trusts, and to assume, undertake, or pay the obligations, 18 debts, and liabilities of any such person, firm, 19 corporation, joint-stock company, association, or trust;

20 <u>(viii)</u> to acquire improved or unimproved real estate 21 for the purpose of constructing industrial plants or other 22 business establishments thereon or for the purpose of 23 disposing of such real estate to others for the construction 24 of industrial plants or other business establishments; and 25 <u>(ix)</u> to acquire, construct, or reconstruct, alter,

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repair, maintain, operate, sell, convey, transfer, lease, or
 otherwise dispose of industrial plants or business
 establishments+:

(r) Te to acquire, subscribe for, own, hold, sell, 4 assign, transfer. mortgage, pledge, or otherwise dispose of 5 the stock, shares, bonds, debentures, notes, or other 6 7 securities and evidences of interest in- or indebtedness of-8 any person, firm, corporation, joint-stock company, 9 association, or trust, and while the owner or holder thereof 10 to exercise all the rights. powers, and privileges of ownership, including the right to vote thereon-: 11

12 (b) (xi) To to mortgage, pledge, or otherwise encumber 13 any property, right, or thing of value, acquired pursuant to 14 the powers contained in paragraphs - (c), - (f), - or - (g), 15 <u>subsections (1) (c) (yi) through (1) (c) (x) of this section</u>, as 16 security for the payment of any part of the purchase price 17 thereof-;

18 (i) (xii) To--co-operate to cooperate with and avail itself of the facilities of the state planning and economic 19 20 development department divisions of the department of 21 companity affairs and any similar governmental agencies+ and 22 to co-operate cooperate with, and assist, and otherwise 23 encourage organizations in the various communities of the 24 state in the promotion, assistance, and development of the 25 business prosperity and economic welfare of such communities

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1 or of this state or of any part thereof.

2 (1) (xiii) to to accept gifts, donations, bequests,
3 devises, or grants from any person, corporation,
4 association, or governmental agency, whether state, federal,
5 or municipal.

6 (k) (xiv) to to all acts and things necessary or
 7 convenient to carry out the powers expressly granted in this
 8 act-:

9 -{4} (d) The articles of incorporation shall--set forth 10 the amount of total authorized capital stock and the number 11 of shares in which it is divided, the par value of each share, and the amount of capital stock with which it will 12 13 commence business, and, if there is more than one class of 14 stock, a description of the different classes, and the mames 15 and post-office addresses of the subscribers of stock and 16 the number of shares subscribed by each. The aggregate of 17 the subscription shall be the amount of capital with which 18 the corporation will commence business.

19 (5)(2) The articles of incorporation may also contain 20 any provision consistent with the laws of this state for the 21 regulation of the affairs of the corporation or creating, 22 defining, limiting, and regulating its powers. The articles 23 of incorporation shall be in accordance with the provisions 24 of Title 15, Revised-Codes-of-Kontana 1947, so far as 25 consistent with this act."

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Section 35. Section 47-209, R.C.E. 1947, is amended to
 read as follows:
 *47-209. License renewal fee <u>failure to pay</u>

effect --- license - when in force. Every licensee shall,
on or before the first day of December 1, pay to the
department the sum of one-hundred twenty five dellars
(\$125-00) for each license held as a licensee license fee
for the succeeding calendar year. Failure to pay such
license fee within the time prescribed shall automatically
revoke such license."

Section 36. Section 47-211, R.C.M. 1947, is amended to
 read as follows:

13 "47-211. Installment payment -- contract period.
14 (1) No licensee shall may enter into any contract of loan;
15 (a) of three-bundred dollars (\$300) or less, exclusive
16 of charges, under this act which the borrower agrees to make
17 any scheduled repayment of principal more than twonty-one
18 (21) calendar months from the date of making such contract;
19 nor any contract of loan

20 (b) for more than three-hundred-dellars (\$300) to and 21 including one-thousand dellars (\$1,000), exclusive of 22 charges, under which the borrower agrees to make any 23 scheduled repayment of principal more than twenty-five (25) 24 calendar months from the date of making; nor any contract 25 of lean 1 <u>(c)</u> for more than one thousand dellars (\$1,000) to and 2 including two thousand dellars (\$2,000)-<u></u> exclusive of 3 charges, under which the borrower agrees to make any 4 scheduled repayment of principal more than thirty seven (37) 5 calendar months from the date of making,; acr any contract 6 of lean or

7 (d) for more than two thousand dollars (\$2,000), to
8 and including two thousand five bundred dollars (\$2,500),
9 exclusive of charges, under which the borrower agrees to
10 make any scheduled repayment of principal more than
11 thirty-cover (37) calendar months from the date of making.

(2) Every loan contract shall require payment of 12 13 principal and charges in installments which shall be payable 14 at approximately equal periodic intervals, except that 15 payment dates may be omitted to accommodate borrowers with 16 seasonal incomes. No installment contracted for shall may be 17 substantially larger than any preceding installment. When a 18 loan contract provides for monthly installments, the first 19 installment may be payable at any time within forty-five 20 +45} days of the date of the loan and the charges for the 21 number of days in excess of thirty-(30) from the date of 22 making may be added to the scheduled amount of said the 23 installments."

24 Section 37. Section 47-220, R.C.M. 1947, is amended to 25 read as follows:

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#47-220. Wage assignments - limitations. [1] The ÷, payment in money, credit, goods, or things in action, as 2 consideration for any sale or assignment of, or order for 3 payment of wages, salary, commission, or other ú the compensation for services, whether earned or to be earned, 5 shall, for the purpose of regulation under this act, be 6 deemed considered a loan secured by such assignment, and the 7 amount by which the assigned compensation exceeds the amount 8 of the consideration actually paid, shall, for the purposes 9 of regulation under this act, be decard considered interest 10 or charges upon the loan from the date of payment to the 11 date the compensation is payable. Such transactions shall be 12 governed by and be subject to the provisions of this act. 13

(2) Any assignment or other transfer to a licensee or 14 for the benefit of a licensee, of salary, wages, 15 commissions, or other compensation for services, must be 16 ligited to not exceeding ten por such (10%) of such salary, 17 wages, commissions, or other compensation owing at the time 18 of the notice to the debtor's employer, - hereinafter 19 provided, and thereafter to become owing. Provided, however, 20 However, no such assignment or order shall be is valid 21 unless it is in writing, signed in person by the borrower, 22 or if the borrower is married, unless it is signed in person 23 by both husband and wife, provided that written assent of a 24 spouse shall-not be is not required when husband and wife 25

-45--

have been and are living separate and apart when such 1 assignment or order is made. Such potice chall be given only 2 if If ONLY IF the debtor defaults in payment of the whole or 3 some part of the loan for which such assignment or transfer ш is security, motice-shall SHALL NOTICE be given to the 5 debtor's employer of such assignment or transfer. Such 6 7 notice sust be served on the employer or a managing agent of such employer, sust be verified by the oath of the licensee 6 or his agent, and must include: 9 10 (a) & a correct copy of the assignment+: (b) # a statement of the amount of such loan and the 11 amount due and unpaid thereon+; 12 (c) # a copy of this section. 13 (3) The acceptance and honoring of any assignment shall 14 be at the option of the employer." 15 Section 38. Section #7-226, R.C.M. 1947, is amended to 15 read as follows: 17 18 #47-226. Access to records -- witnesses. Por the 19 purpose of this section chapter the department or its duly 20 authorized representatives shall have and be given free 21 access to the offices and places of business, files, safes, 22 and vaults, of all such persons, and shall have authority to may require the attendance of any person and to examine him 23 24 under oath relative to such loans or such business or to the 25 subject matter of any examination, investigation, or hearing and shall-have-authority to say require the production of 26

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books, accounts, papers, and records. In the event of disobedience to any subpoena or other process issued by the department or failure to produce any books, accounts, papers, and records, the department may invoke the aid of any district court of this state in requiring the evidence and testimony of witnesses and the production of books, accounts, papers, and records.

8 Section 39. Repealer. Section 5-1125, R.C.N. 1947, is

9 repealed.

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SB 0006/02

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1	SENATE BILL NO. 6				
2	INTRODUCED BY HAZELBAKER				
3					
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND				
5	CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN				
6	ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT				
7	CORPORATIONS, AND CONSUMER LOAN BUSINESSES.*				
8					
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:				
10	Section 1. Section 5-102, R.C.M. 1947, is amended to				
11	read as follows:				
12	"5-102. Institutions to which act is applicable. (1)				
13	The word "Bank" "bank" as used in this are <u>title</u> , shall be				
14	construed to mean <u>means</u> any corporation which shall-have <u>has</u>				
15	been incorporated to conduct the business of receiving money				
16	on deposit _{$au or transacting a trust or investment business as$}				
17	bereibafter defined, AS DEFINED IN THIS TITLE.				
18	(2) The soliciting, receiving, or accepting of money				
19	or its equivalent on deposit as a regular business , shall be				
20	deemed to be <u>is</u> doing a commercial or savings bank business,				
21	whether such deposit is made subject to check or is				
22	evidenced by a certificate of deposit, a passbook, a note,				
23	or other receipt+_ providedy that nothing herein shall apply				
24	applies to or includes money or its equivalent left				
25	in escrow, or left with an agent pending investment in real				
There are no changes in $\underline{S,BL}_{}$, and due to length will not be rerun. Please refer to yellow copy for complete text.					
	THIRD READING				

1	estate or securities for or on account of his principal.
2	(3) It shall be is unlawful for any corporation,
Э	partnership, firm, or individual to engage in or transact a
4	banking business within this state, except by means of a
5	corporation duly organized for such purpose.
6	(4) Banks are divided into the following classes:
7	(a) Germercial Basks, <u>commercial banks</u> ;
8	(b) Savingo Baaks, <u>savings banks:</u>
9	(c) Trust Companies, <u>trust companies;</u>
10	(d) Invostment Companies, investment companies,
11	provided, further, however, that this act shall not apply to
12	any persony firs or accoulation now doing a private banking
13	business;provided,bovever,thatsaidprivatebanks
14	koroisabovoroforrodtoshallsomeunderallofthe
15	provisions-ofthisastvhiphsaybofairlyapplicable
16	thoreto; provided further, hovever, that this act shall not
17	[5] This title does not apply to any investment
18	company or corporation , heretofore established <u>prior to</u>
19	<u>March 8, 1927,</u> under authority of the law of Montanay not
20	accepting, receiving, and or holding money on deposit."
21	Section 2. Section 5-202.1, R.C.K. 1947, is amended to
22	read as follows:
23	*5-202.1. Board to refuse or approve application. The
24	board may refuse or approve an application for a certificate
25	of authorization in accordance with $\frac{1}{10000000000000000000000000000000000$

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1 through 5-614."

2 Section 3. Section 5-403, R.C.M. 1947, is amended to
3 read as follows:

"5-403. Scope of term "liquidating officer" department of business regulation to file inventory with 5 district court - report. (1) For the purpose of this 6 7 section the term "liquidating officer" includes every person legally empowered to liquidate the business and affairs of a 8 9 state bank, whether the liquidation is by the department of 10 business regulation or its deputies and agents. The term 11 also includes all receivers of state banks qualified to 12 liquidate a state bank under any law of this state.

13 (2) The liquidating officer of a bank may decide when 14 the assets of a failed bank are not sufficient to pay the 15 debts, contracts, engagements, and liabilities, and he may 16 determine the question of the time when and the court where 17 necessary legal proceedings shall be conducted, subject to 18 the general provisions of law governing venue and place of 19 trial. Por-the-purposes-of-this-section--the-tors 20 21 22 bank whether the liquidation is by the department of 23 basiacco-regulationy--ito--deputies--and--agente--and--also 24 includoo all-reseivers-of-state-basks-qualified-to-liquidate 25 a-state-bask-under any-law-of-this-state

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 (3) The provisions of this chapter do not impose any

 2
 liability on a stockholder of a bank which is a member of

 3
 the Federal Deposit Insurance Corporation federal deposit

 4
 insurance corporation.

 5
 (4) The department shall, within minety (90) days

after taking charge of an insolvent bank, file with the 7 district court having jurisdiction a complete inventory of A all of the property and assets of the insolvent bank, such as furniture, fixtures, real estate, mortgages, bonds, and 9 notes, secured and unsecured. It shall also every six (6) 10 months, or more often, if required by the court, file with 11 12 the court a report showing the conditions status of the 13 liquidation of the bank, the assets that have been 18 liquidated and collected, the amounts and manner of payments 15 made to creditors, the manner in which claims have been 16 handled, and the assets on hand. The report shall contain 17 other information the court requires, so that the court and 18 the public may be apprised of the condition of the bank and 19 the manner in which it is being liquidated with respect to 20 the collection and sale of assets belonging to the bank and 21 the manner in which claims are being paid. The report and 22 account shall be set for hearing upon the notice the court 23 may require and, if found to be correct, shall be approved 24 by the court." 25 Section 4. Section 5-504, R.C.H. 1947, is amended to

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SB 6

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1	SENATE BILL NO. 6	1	estate or securities for or on account of his principal.
2	INTRODUCED BY HAZELBAKER	2	(2) It shall-be is unlawful for any corporation.
3		3	partnersnip, firm, or individual to engage in or transact a
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND	4	banking pusiness within this state, except by means of a
5	CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN	5	corporation duly organized for such purpose.
D	ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT	6	(4) Banks are divided into the following classes:
7	CORPORATIONS, AND CONSUMER LOAN BUSINESSES."	7	(a) Commercial-Banksy <u>commercial banksi</u>
8		в	(b) Sevings-Benksy sayings banks:
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	9	(c) Trust Companies, <u>trust companies</u>;
10	Section 1. Section 5-102, R.C.M. 1947, is amended to	10	(d) investment-Companies, investment companies,
11	read as follows:	11	providedy-furthery-howevery-that-this-act-shall-not-apply-to
12	*5-102. Institutions to which act is applicable. (1)	12	anypersony-firm-or-ossociation-now-doing-a-private-banking
13	The word "Bank" <u>"bank"</u> as used in this act <u>title</u>, shall-be	13	business;providedyhoweverythatsaidprivatebanks
14	construct-to-mean means any corporation which shall-have has	14	hereinabovereferredtoshallcomeunderallofthe
15	been incorporated to conduct the business of receiving money	15	provisions-ofthisactwhichmaybefairlyapplicable
16	on deposity or transacting a trust or investment business as	16	thereto;provided-furthe ry-howevery-that-this-act-shall-not
17	nereinafter-defines. AS_DEFINED_IN_THIS_TITLE.	17	(2) This title does not apply to any investment
18	(2) The soliciting, receiving, or accepting of money	18	company or corporation y-heretofore established <u>prior to</u>
19	or its equivalent on deposit as a regular business y-shall-be	19	March_d. 1927. under authority of the law of Montanay not
20	deemed-to-be is using a commercial or savings bank business.	20	accepting, receiving, and <u>or</u> holding money on deposit."
21	whether such deposit is made subject to check or is	21	Section 2. Section 5-202.1, K.C.M. 1947, is amended to
22	evidenced by a certificate of deposit, a passbook, a note,	22	read as follows:
23	or other receipt i provided , that nothing herein shall apply	23	">-202.1. Board to refuse or approve application. The
24	applies to or include includes money or its equivalent left	24	board may refuse or approve an application for a certificate
25	in escrowy or left with an agent pending investment in real	25	of authorization in accordance with sections5-607 5-610
	REFERENCE BILL		-2- SB 6

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REFERENCE BILL

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1 through 5-614."

2 Section 3. Section 5-403, R.C.M. 1947, is amended to 3 read as follows:

4 #5-463. Scope of term "liquidating officer" --5 department of business regulation to file inventory with 6 district court -- report. (1) For the purpose of this 7 section the term "liquidating officer" includes every person 8 legally empowered to liquidate the business and affairs of a 9 state bank, whether the liquidation is by the department of 10 business regulation or its deputies and agents. The term 11 also includes all receivers of state banks qualified to 12 liquidate a state bank under any law of this state. 13 121 The liquidating officer of a bank may decide when the assets of a failed bank are not sufficient to pay the 14 debts, contracts, engagements_ and liabilities_ and he may 15 determine the question of the time when and the court where 16 17 necessary legal proceedings shall be conducted, subject to the general provisions of law governing venue and place of 18 19 trial. For--the--purposes--of---this---section---the---term

20 #liquidating---officer*---includes---every---person--legally
21 empowered-to-liquidate-the-business-and-affairs-of--a--state
22 bank--whether--the--liquidation--is--by--the--department--of
23 business--regulationy--its--deputies--and--agents--and--also
24 includes-all-receivers-of-state-banks-qualified-to-liquidate

25 a-state-bank-under-any-law-of-this-statew

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1 (3) The provisions of this chapter do not impose any 2 liability on a stockholder of a bank which is a member of 3 the Federal--Beposit--Insurance-Corporation federal deposit 4 insurance corporation.

5 [4] The department shall, within ninety--(90) days 6 atter taking charge of an insolvent banky file with the district court having jurisdiction a complete inventory of 7 all of the property and assets of the insolvent bank, such 8 9 as furniture, fixtures, real estate, mortgages, bonds, and 10 notes, secured and unsecured. It shall also every six-to; months, or more ofteny if required by the court, file with 11 the court a report showing the conditions status of the 12 13 liguidation of the bank, the assets that have been liquidated and collected, the amounts and manner of payments 14 15 made to creditors, the manner in which claims have been 16 handled, and the assets on hand. The report shall contain 17 other information the court requires, so that the court and the public may be apprised of the condition of the bank and 18 19 the manner in which it is being liquidated with respect to 20 the collection and sale of assets belonging to the bank and the manner in which claims are being paid. The report and 21 account shall be set for hearing upon the notice the court 22 23 may require and, if found to be correct, shall be approved 24 by the court."

25 Section 4- Section 5-504; R.C.M. 1947; is amended to

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2 "5-504. Real estate which banks may purchase, hold, or
3 convey. (1) A bank organized under the provisions of this
4 act may purchase. hold, or convey real estate which:

5 (a) is is necessary for the proper transaction of its 6 business, but it shall not invest an amount exceeding fifty 7 per-cent-(50%) of its paid-up capital and surplus in the lot 8 and building in which the business of the company is carried 9 on, furniture, equipment and fixtures, vaults and safety 10 vaults, and boxes necessary or proper to carry on its 11 banking business;

(b) is is mortgaged to it in good faith by way of
 security for loans previously made or moneys due to the
 corporations bank;

15 (c) <u>is is</u> conveyed to it in satisfaction of debts
 previously contracted in the course of its business;

17 (d) It it purchases at sales under judgments, decrees,
18 or mortgages held by the company bank.

19 (2) Real estate acquired in the manner set forth in 20 subsections (1)(c) and (1)(d) of this section may not be 21 held longer than five-(5) years from the date of 22 acquisition, unless special written permission to do so is 23 granted by the department of-business-regulation. The real 24 estate shall be carried on the books of the bank for an 25 amount not greater than its cost to the bank, including costs of foreclosure and other expenses of acquiring title."
 Section 5. Section 5-506, R.C.M. 1947, is amended to
 read as follows:

"5-506. Limitation on real estate loans. (1) A 4 5 commercial bank organized under the laws of this state may ά, make real estate loansy secured by first liens upon improved 7 real estate, including improved farm land and improved business and residential properties_ and may purchase an 8 9 obligation so secured when the entire amount of the 10 obligation is sold to the bank. The amount of the loan may 11 not exceed fifty-percent-(50%) of the appraised value of the 12 real estate offered as security, and the loan may not be 13 made for a longer period than five-15; years, except that:

14 (a) The the loan may be made in an amount not to 15 exceed sixty--percent--(60%) of the appraised value of the real estate offered as security and for a term not longer 16 17 than twenty--(20) years if the loan is secured by an amortized mortgage, deed of trust, or similar instrument, 18 19 under the terms of which the installment payments are 20 sufficient to amortize forty-percent-(40%) or more of the 21 principal of the loan within not more than twenty-f20> 22 years; and

(b) A-commercial <u>a</u> bank may not make those loans in an
 aggregate sum in excess of the amount of its capital stock
 paid in and unimpaired plus the amount of its unimpaired

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surplus or in excess of sixty percent (60%) of the amount of
 its time and saving deposits, whichever is greater.

3 (2) Loans made to finance the construction of residential or farm buildings and having maturities of not 4 5 to exceed six-to; months, whether or not secured by a mortgage or a similar lien on real estate upon which the 6 7 residential or farm building is being constructed, are not loans secured by real estate within the meaning of this н Q sectiony but shall be classed as ordinary commercial loans. 10 A conservisit bank may not invest in or be liable on any of 11 those loans in an aggregate amount in excess of fifty 12 percent---- (50%) of its actually paid-in and unimpaired 13 capital.

14 (3) Loans made to establish rural or commercial 15 businesses, which are in whole or in part discounted or loaned against as security by a federal reserve bank for any 16 17 part of which a commitment has been made by a federal 18 reserve bank or in which an agency of the federal government 19 co-operated cooperated or purchases purchased a 20 participation in, are not subject to the restrictions or 21 limitations of this section upon loans secured by real 22 estate. A commercial bank in this state has from time to 23 time the same authority to make loans upon real estate which may be given by acts of Congress congress or the federal 24 reserve system to national banks or bank members of the 25

1 federal reserve system.

2 (4) The limitations and restrictions imposed by this 3 section do not prevent the renewal or extension of loans 4 made before February 18, 1941, and do not apply to real 5 estate loans which are insured under the provisions of any 6 act of teneress congress. Those limitations and restrictions 7 do not apply to the making, extension, or renewal of any 8 loans made under subchapter II of the act of Eongress 9 congress known as the Servicemen's Readjustment Act of 1944* 10 or any amendment or supplement to that act.

11 (5) This section, however, does not prevent a bank 12 from taking another and immediately subsequent mortgage or deed of trust when it already holds a first mortgage or deed 13 14 of trust on the real estater or from accepting a second lien 15 on real estate to secure the repayment of a debt previously 16 contracted in good faith. These provisions do not prevent 17 subsequent liens of any kind from being taken to secure the 18 payment of a debt previously contracted in good faithy when, 19 in the judgment of the directors of the bank, the subsequent liens are necessary further to secure the payment of any 20 21 debts and save the bank from loss. #Commercial-bank#-as 22 used-in-this-section-means-a-bank-organized-to-do--only--the 23 business-specified-in-sections-5-104-to-5-107*"

24 Section 6. Section 5-508, R.C.M. 1947, is amended to 25 read as follows:

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1 #5-508. Business-prohibited-unless-under-deportment---2 use-of-certain-words-prohibited----court--may--enjoin When 3 advertising as bank prohibited -- trade names restricted. 4 (1) A persony firm, company, coportnership, partnership, or corporation, either domestic or foreign, not subject to the 5 supervision of the departmenty and not required by the 6 7 provisions of this act to report to ity and which has not received a certificate to do a banking business from the R 9 department, may not; 10 (a) advertise that he or it is receiving or accepting

11 money or savings for deposit, investment, or otherwise, and 12 issuing notices or certificates of deposit thereform or

13 <u>(h)</u> use an office signy at the place where the 14 business is transactedy having on it an artificial or 15 corporate namey or other words indicating that:

16 (i) the place or office is the place or office of a
 17 bank or trust company;

18 or-thet (ii) deposits are received there or payments
19 made on check <u>CHECKSy:</u> or

20 <u>(iii)</u> any other form of banking business <u>is</u> transacted
21 <u>there</u>.

<u>(2)</u> That person, or--personsy firm, company,
copartnership partnership, or corporation, domestic or
foreign, may not use or circulate letterheads, bill-heads
billheads, blank notes, blank receipts, certificates, or

circulars, or any written or printed or partly written and
 partly printed paper, whatever, having on them an artificial
 or corporate name or other word or words indicating that the
 business is the business of a bank, savings bank, or trust
 or investment company.

6 (3) That person, firm, company, copartnership 7 partnership, or corporation, or any agent of a foreign 8 corporationy not having an established place of business in 9 the statey may not solicit or receive deposits or transact 10 business in the way or manner of a bank, savings bank, 11 trust, or investment company, or in a manner which leads the public to believe that its business is that of a bank, 12 13 savings bank, trust, or investment company.

14 (4) A firm, copertnership person, company, 15 partnership, or corporation, domestic or foreign, not 16 subject to the supervision of the departmenty and not 17 required by the provisions of this act to report to $it_{\mathbf{v}}$ and 18 which has not received from the department a certificate to 19 do a banking business, may not transact business under a 20 name or title which contains the word "banky", "bankery", "savingy"s 21 "bankingy"_ "savings bank+*1 "trusty", "trusteey", "trust companyy", or "investment companys", 22

23 (5) A person, firm, company, copartnership
 24 partnership, or corporation, domestic or foreign, violating
 25 a provision of this section shall forfeit to the state one

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1 hundred-dollars-(\$100) a day for every day or part of a day 2 during which the violation continues.

3 (6) Upon suit by the department, the court may issue an injunction restraining that person, firm, company, 4 coportnership partnership, or corporation during pendency of 5 6 the action and permanently from further using those words in 7 violation of the provisions of this sectiony or from further transacting business in a manner which leads the public to B 9 believe that its business is that of a bank, savings bank, 10 trust, or investment company---during-the-pendency-of-the 11 action-and permanently, and may enter any other order or 12 decree as equity and justice require.*

13 Section 7. Section 5-517, R.C.M. 1947, is amended to 14 read as follows:

15 "5-517. Limit on amount of bond issue. No commercial bank shall may purchase, agree to purchase, or underwrite any bond issue in excess of ten--per--centum 10% of its assets, except bonds of the United States, of the state of Montana, or of the cities, towns, counties, or school districts of this state."

21 Section 8. Section 5-519, R.C.M. 1947, is amended to 22 read as follows:

23 *5-519. Bbtaining-property-by-fraud----false-report-- 24 refusal-to-permit-inspection-of--books <u>Fraud_by_directors</u>
 25 <u>officers_or_employee</u>. A director, officer, agent, or

1 employee of a bank <u>is quilty of a felony</u> who:

2 (1) Knowingly knowingly receives or possesses himself
 3 of any of its property, otherwise than in payment for a just
 4 demand, and with intent to defraudy:

5 <u>(a)</u> omits to make or to cause or direct to be made a 6 full and true entry of it in its books and account; or

7 <u>(2)(b) Concurs concurs</u> in omitting to make any 8 material entry thereof; ory

9 (3)(2) Knowingly knowingly concurs in making or
 10 publishing any written report, exhibit, or statement of its
 11 affairs or pecuniary condition, containing any material
 12 statement which is false; or,

13 (4)(3) Having having the custody or control of its 14 books, willfully refuses or neglects to make a proper entry 15 in the books of that corporation as required by law, or to 16 exhibit them, or allow them to be inspected and extracts to 17 be taken from them by the departmenty---is--guilty--of--e 18 felony."

19 Section 9. Section 5-530, R.C.M. 1947, is amended to 20 read as follows:

21 *5-530. Deposit by minor. Whenever any deposit shall
22 be made in any banky-and by and or in the name of any minor.
23 the same shall be held for the exclusive right and benefit
24 of such minory and free from the control or lien of all
25 persons whatsoever, except creditors, and shall be paid.

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with any interest due thereon, to the person in whose name 1

the deposit shall-have-been was made, and the receipt of such minor shall-be is a sufficient release or discharge for such deposit to the bank."

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5 Section 10. Section 5-604, R.C.N. 1947, is amended to 6 read as follows:

⁷ "5-604. Director of business-regulation and employees
8 not to be interested in banks. Neither the director of the
9 department. of business regulation nor any bank examiner may
10 be interested in or a borrower from any state bank, directly
11 or indirectly."

12 Section 11. Section 5-609, R.C.M. 1947, is amended to read as follows:

14 #5-609. Secretary State banking board -- secretary of 15 board -- meetings of-board -- per diem quorum-remuneration. 16 (1) The board state banking board, established by 82A-407. 17 shall elect from its members a secretary to serve at the 18 pleasure of the board.

19 <u>(2)</u> In performing its functions the board shall have
 20 use of the offices, equipment, and personnel of the
 21 department of-business-regulation as it requires.

22 (3) The board shall hold regular meetings each quarter at a fixed date and time at the office of the department of business--regulation. Special meetings may be called at any time by the chairman upon three (3)-days days! notice to the l menabers.

2 (4) A quorum for all meetings shall be a majority of 3 the board members, and action may be taken by a majority of 4 the quorum present at any meeting. 5 (5) The chairman shall have a voice but no vote in all 6. meetings except to break a tie. 7 (6) Any board member except the chairman may be 8 removed by the governor without cause in any case. 9 [1] The board members, except the chairman, shall be paid twenty five-dollars-(\$25) per day or any part thereof 10 11 devoted to the performance of their duties, and actual and 12 reasonable expenses incurred in the performance of their 13 duties and mileage as provided by law to state officers. The 14 costs and expenses of the board shall be legitimate charges 15 of the department of-business-regulation." Section 12. Section 5-610, R.C.M. 1947, is amended to 16 17 read as follows: 18 #5-610. Powers and duties of board. The state banking 19 board snall: 20 (1) make final determinations upon applications for 21 certificates of authorization for new banks, mergers, 22 consolidations, and relocations of banks;

(2) act in an advisory capacity with respect to the
 duties and powers given by statute or otherwise to the
 director of the department of business regulation as said

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the duties and powers relate to banking."

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2 Section 13. Section 5-611, R.C.M. 1947, is amended to 3 read as follows:

4 *5-611. Rules adopted by board -- new banks. The board shall adopt rules necessary for the administration of this 5 6 act 5-609 through 5-614 in accordance with the Montana 7 Administrative Procedure Act [82-4201-to--82-4225]. In 8 particular, the board shall adopt rules concerning the authorization of new banks. Such rules shall contain Q 10 minimum standards under which an application for a new bank 11 shall be determined_ including the following:

12 (1) a persuasive showing that there is a reasonable
13 public necessity and demand for a new bank at the proposed
14 location;

15 (2) that the bank will be owned and managed by persons
16 of good moral character and financial integrity, and will be
17 safely and soundly operated;

18 (3) a persuasive showing that the new bank will have a
19 sufficient volume of business to assure solvency and that
20 establishment of the new bank will be in the public
21 interest."

22 Section 14. Section 5-702, R.C.H. 1947, is amended to 23 read as follows:

24 *5-702. Report of declaration of dividend. In addition
25 to the statement report required by section 5-701, a bank

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shall report to the department within ten--(10) days after
 declaring any dividend, showing the amount of the dividend
 and the amount of net earnings in excess of the dividend.
 The statement report shall be attested as provided for in
 the attestation of statement by section 5-701."

6 Section 15. Section 5-707, R.C.M. 1947, is amended to 7 read as follows:

8 #5-707. False statements and entries deemed considered 9 felony. Every officer or other person authorized by this 10 acty who willfully and knowingly makes any false statement 11 of facts, statement of account, or report, and every 12 officer, agent, or clerk of any bank who willfully and 13 knowingly makes any false entries in the books of such banky 14 or knowingly subscribes or exhibits false papersy with the 15 intent to deceive any person authorized to examine such 16 banky and every person authorized by the provisions of this 17 act to make statements or reportsy who willfully and 18 knowingly subscribes or makes any false statement or reporty 19 shall--be-deemed is quilty of a felonyy andy upon conviction 20 thereofy shall be imprisoned at--hard--labor in the state 21 prison for a term of not less than one-fly-nor or more than 22 ten-t10; years."

23 Section 16. Section 5-802, R.C.M. 1947, is amended to 24 read as follows:

25 *5-802. Penalty for receiving deposits when insolventy

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or for making false statements. Any officer, agent, or clerk ł Z of any bank, knowing such bank to be insolvent, who receives money, bank bills, notes of the United States, or currency, 3 or other bills or drafts circulating as money or currency, 4 5 except in the manner set forth in the succeeding sectiony: 6 or-who subscribes or makes any false statements or entries in the books of such banky--or; knowingly subscribes or 7 8 exhibits any false paper with the intent to deceive any 9 person authorized to examine as to the condition of such 10 banky; or willfully subscribes or makes false reportsy-shall be is subject to imprisonment at-hard-labor in the state 11 prison for a term not exceeding five-(5) years." 12

13 Section 17. Section 5-1002, R.C.M. 1947, is amended to 14 read as follows:

#5-1002. Change from state to national bank. Any bank 15 may become a corporation for the purpose of carrying on the 15 business of banking in this state, under the act of Congress 17 condress "to provide a national currency secured by a pledge 18 of United States bondsy and to provide for the circulation 19 20 and redemption thereofy", approved June 3, 1864, and of 21 under Title 52 of the Revised Statutes of the United States, when stockholders owning two-thirds (2/3) of the stock of 22 the bank have voted to become such corporationy or have 23 24 executed a written consent authorizing its directors to make the certificate required therefor by the laws of the United 25

1 Statesy or when a majority of the directors of the bank. 2 having been authorized in their discretion to make the 3 change, shall, by a vote of the majority, decide to become such corporation. The cashier of the bank shall publish 4 5 notice thereof for thirty-{30} days in the newspaper which the directors selecty and send a like printed notice by sail 6 7 or otherwise to all nonvoting or dissenting stockholdersy 8 and notify the department of business regulation that the bank has decided to become a corporation under the laws of 9 the United States." 10 11 Section 18. Section 5-1019, R.C.N. 1947, is amended to 12 read as follows: 13 #5-1019. Special examination defined. An A special 14 examination is an examination made by the department

18 request of the board of directors or stockholders of a banky 19 is-a-special-examination." 20 Section 19. Section 5-1021, R.C.M. 1947, is amended to 21 read as follows: 22 "5-1021. Consolidation or merger of banks. (1) The 23 words "bank" or "banks" as used in this section include 24 commercial banks, savings banks, trust companies, investment 25 companies, and other such corporations carrying on the

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otherwise than in the ordinary routine of the departmenty

and because, in its opinion, the condition of the bank

requires the examinationy-and or an examination made at the

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1 business of banking, trust company, or investment company 2 under the laws of this state or doing business in this state under the national banking laws of the United States. 3 (2) Any two or more banks doing business in this 4 5 statey may, with the approval of the state banking boardy in the case of state banks, consolidate,-join-and or merge into 6 7 one bank undery-into-and-with-the-charter-of-sither-existing 8 bank-hereinofter-referred-to-as-the--consolidated--bank. on 9 such terms and conditions as may be lawfully agreed upon by 10 a majority of the board of directors of each bank proposing 11 to consolidatey--and--be--ratified--and-confirmed or merge. 12 Such consolidation or perger, before it becomes effective. must be ratified by the consent in writing of the 13 14 shareholders of each such bank owning at least two-thirds of 15 its capital stock outstanding to provided that the capital 16 stock of such consolidated or merged bank shall may not be less than that required under existing law for the 17 organization of a bank of the class of the largest of the 18 19 banks so consolidating.

20 <u>(3)</u> Upon such consolidation <u>or merger</u>, the corporate 21 franchise, corporate life, being, and existence, and the 22 corporate rights, powers, duties, privileges, franchises, 23 and obligations, including the rights, powers, duties, 24 privileges, and obligations as trustee, executor, 25 administrator, guardian, and all and every right, power,

duty, privileger and obligation as fiduciary, together with 1 title to every species of property, real, personal and 2 3 mixed, of such consolidating or merging bank and banks shall, without the necessity of any instrument of transfer, 4 5 be-and become consolidated or merged and continued in and 6 held, anjoyed, and/or assumed by the consolidated or merged bank, and such consolidated bank shall have and enjoy the 7 8 right equal as to priorities with any other applicant to appointment by the courts to the offices of executor, 9 administrator, guardian, and/or trustee under any will or 10 other instrument made prior to such consolidation or merger 11 and by which will or instrument such consolidating or 12 merging bank was nominated by the maker to such office. 13 The-word-"bank"-or-"banks"-as--used--in--this--sectiony 14 shall--be--held--to-include-commercial-banksy-savings-banksy 15 trust--componiesy---investment--componies--and---other---such 16 17 corporations--carrying--on--the--business--of-bankingy-trust compony-or-investment-company-under-the-laws-of--this--state 18 or--doing--business-in-this-state-under-the-national-banking 19

20 laws-of-the-United-States+*

21 Section 20. Section 5-1027, R.C.M. 1947, is amended to
 22 read as follows:

23 "5-1027. Department may make rules. The department
 24 shall---have--the--authority--to--make--and may promulgate
 25 reasonable rules and orders in--the--matter--of concerning

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bookkeeping and accounting by state banks, including the
 keeping of reasonable credit information, or information in
 connection with assets, end-for or information in connection
 with charged-off charged-off items."

5 Section 21. Section 5-1032, R.C.M. 1947; is amended to 6 read as follows:

7 *5-1032. Bonding of employees. (1) it-shall-be-the 8 duty-of-the <u>The</u> board of directors of every bank to <u>shall</u> 9 require that all officers and employees of banks whose duty 10 includes the handling of moneys, notes, bonds, credits, and 11 cash items, and whose duties include bookkeeping end/or the 12 making of entries in relation to the business of the bank 13 and its customers, be bonded.

(2) The board of directors shall by order duly entered 14 upon the minutes minute books of the board designate the 15 officers and employees to be bonded and the amount of bonds 16 to be given. Such action as to the personnel and the amount 17 of bonds, and the surety company or sureties to be is 18 subject to approval by the departmenty and the bonds to 19 20 shall be in such form as shall-be is provided or approved by 21 the departmenty_

<u>(3)</u> the <u>The</u> bonds to <u>shall</u> be approved by the
president of the bank and his action reported to the board
of directorsta

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25 [4] all bonds required by this section to shall be

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kept in the custody of the bank subject to inspection by
 examiners from the department; provided, as far as possible,
 they snall may not be placed in the custody of the officer
 or employee for whom the same is given."

5 Section 22. Section 5-1039, R.C.M. 1947; is amended to
6, read as follows:

#5-1039. Giving security for deposit prohibited --7 8 exceptions. It shall-be is unlawful for any bank to pledge, 9 mortgage, or hypothecate to any depositor any of its real or 10 personal property as security for any deposit, and any 11 pledge, mortgage, or hypothecation made in violation thereof shall-be is unenforceables, providedy--howevery--that--this 12 This provision shall does not apply to any deposits of money 13 14 of the United States, and public funds deposited in 15 accordance with the provisions of any depository act of this 16 state, or the United States, or bankruptcy estate funds or 17 deposits, also including deposits of receivers or trustees 18 in bankruptcy, deposited under the direction and supervision 19 of a court of record of the state of Montana or of the United States." 20 21 Section 23. Section 5-1055, R.C.M. 1947, is amended to 22 read as follows:

23 #5-1055* Closing on Saturdays authorized -- Saturday
 24 treated as holiday. Any banky-which-term-for-the-purposes-of
 25 this-oct-shall-mean-any-corporation as defined in section

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5-102y--including--commercial--books-and-trust-componiesy-as 1 more-perticularly--defined--in--sections--5-104--5-105--and 2 3 5-106, and any national bank or national banking association incorporated or organized under the laws of the United 4 5 States of America and any federal reserve bank may, at its 6 election, remain closed and refrain from the transaction of 7 any business on Saturdaysy, and any Any Saturday on which 8 any such bank remains closed shall be, with respect to such 9 bank, a holiday and not a business day. Any act, authorized. required or permitted to be performed on a Saturday at or 10 11 byy or with respect to any bank as-herein-defined, including 12 any national bank or national banking association, and any 13 federal reserve banky-on-a-Saturdayy may be performed on the 14 next succeeding business day, and no liability or loss of 15 any rights of any kind shall result from such closing on 16 Saturdayy or from the nonopening of any bank for the 17 transaction of business on any Saturday under the authority 18 of this act+-for-the-transaction-of-business.*

19 Section 24. Section 5-1106, R.C.M. 1947; is amended to 20 read as follows:

21 *5-1106. Resumption after closing. After the 22 department has taken possession of a bank, it may permit 23 that bank to resume business upon conditions which may be 24 approved by it the department."

25 Section 25. Section 5-1115, R.C.M. 1947, is amended to

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1 read as follows:

2 "5-1115. Claims -- partial payments. (1) The 3 department need not await the expiration of the time allowed for filing claims, as fixed in the notice to the creditors, 4 5 for the payment of dividends. It may, in its discretiony and 6 if under the circumstances of the particular case it 7 considers it expedient and safe, at any time after taking possession of the bank and prior to the expiration of the 8 a period fixed for filing of claims, if it has on hand in cash sufficient funds over and above the expenses of liquidation, 10 make pro rata distribution to any class of creditors next 11 entitled to distribution, in the order of priority fixed in 12 this chapter, making that payment to the creditors as they 13 appear on the books and records of the bank and determining 14 15 the priority and basing his its apportionment on the amount 16 shown to be due by the books and records.

(2) At any time after the expiration of the date fixed 17 18 for the presentation of claims against the bank and from time to time thereaftery when, in its discretion_ there are 19 20 sufficient funds available, the department shall, after making proper provisions for the payment of expenses of 21 liquidation, declare and pay dividends to all creditors of 22 23 the bank pro rata in the order of their priority. If, after the time fixed for presentation of claims against the bank 24 has expired, it appears that a person, prior to the 25

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expiration of the periody or at any other time, has been
 paid more than the prorate pro__rata amount due him as
 compared with the amounts then paid other creditors, nothing
 more may be paid that creditor until the payment made other
 creditors places them on equal footing.

6 (3) In calculating dividends, all disputed claims and 7 deposits shall be taken into account and the amount of 8 dividends upon the disputed claims or deposits shall be held 9 by the department until the validity of those claims or 10 deposits has been finally determined.

(4) Claims against a bank in process of liquidation 11 12 may be assigned in whole or in part subject to the approval of the department. Assignments of claims are binding upon 13 14 the department only after they have been filed and allowed 15 by the departmenty and only-then are subject to the payment of the assignor's liabilities to the bank. An assignment 16 shall be made by filing written notice, signed by the 17 18 original claimant, with the department or person in charge of the pank. No assigned claims may be offset against 19 obligations due the bank. A check or draft drawn against a 20 bank closed or taken possession of by the department, 21 22 whether issued before or after closing, sholl may not be recognized as a claim against the banky or as an assignment 23 of any amount, whether protested or not protested." 24

25 Suction 26. Section 5-1126, R.C.M. 1947, is amended to

read as follows: 1 *5-1126. Power of closed banks to borrow money from 2 governmental agencies. After applying to and obtaining the 3 4 approval of the department and the district court of the 5 county in which the bank or trust or investment company is ó. located, and Notwithstanding notwithstanding any other law. 7 the liquidating agents of closed banks may borrow money from 8 an agency of the federal government on behalf of commercial 9 banks, savings banks, trust companies, and investment 10 companies closed and in liquidation. endy-res As security 11 for the loan the liquidating agent may pledge or mortgage 12 the assets and properties thereofy for the purpose of paying 13 depositors or creditors in part or in fully--after-applying 14 to--and--obtaining--the--approval-of-the--department-and-the 15 district-court-of-the-county-in-which-the-banky-or-trust--or 16 investment--company--is--locatedy-upon-the-court-proceedings 17 prescribed-in-section-5-1107.* 18 section 27. Section 5-1508, R.C.M. 1947, is amended to 19 read as follows: 20 #5-1508. Fransfer of fiduciary relationships between 21 affiliated banks. (1) Any bank which has received approvaly 22 pursuant to section-6 f5-15063 to maintain a trust office in 23 the same building with the main office of any affiliated 24 bank way file its verified application in the district court

25 of the county in which its main office is located requesting

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1 that it be substituted, except as may be expressly excluded 2 in such application, in every fiduciary capacity for such 3 affiliated bank, and such affiliated bank shall join in such 4 application. Such application shall indicate the county 5 wherein the main office of such affiliated bank is located 6 and shall designate each fiduciary account existing at the 7 date thereof with respect to which the applicant bank 8 requests substitution, but fiduciary capacities in other 9 cases need not be listed. Such application shall 10 additionally set forth, with regard to each existing fiduciary account designated therein, the name and address 11 12 last known to the applicant of each person entitled to 13 mailed notice of hearing thereon, who shall be those persons 14 specified in subsections <u>(11(a)</u> to through <u>(11(e)</u>, 15 inclusivey of section 5-1507.

(2) When any such application shall—have has been
filed, the clerk of the court where filed shall make an
order fixing a date and time for hearing thereon and shall
cause notice thereof to be given by publication and mailing
in the manner required by section 5-1507.

(3) The notice to be published and mailed with respect
to each such application shall state the time and place of
the hearing thereon, the name of the bank which has filed
the application, the name of the affiliated bank which has
joined in such application, that the application requests

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that the applicant bank be substituted in every fiduciary L 2 capacity for the affiliated bank specified in the 3 application, and that any person beneficially interested in any affected fiduciary account may appear on or before the 4 5 date of hearing and file his written objection to such substitution as to such affected fiduciary account, and such 6 7 notice shall refer to such application for further particulars. 8

9 (4) On or before the date and time of hearing any such application, any person beneficially interested in any fiduciary account as to which substitution of the applicant bank is requested, may appear and file objection to substitution, and shall be entitled to be heard with respect to such objection.

15 (5) On such date of hearing, upon finding that due notice has been given as required by this act and upon 15 finding that the applicant bank has received the requisite 17 18 approval from the department of-business-regulationy or the comptroller of the currency if the applicant bank is a 19 national banking association, the district court shall enter 20 21 an order substituting the applicant bank in every fiduciary 22 capacity for the affiliated bank designated in the 23 application, excepting as may be otherwise specified in the 24 application, and excepting fiduciary capacities in any 25 account with respect to which an objection has been filed

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1 pursuant to this section. Upon entry of such order, the applicant bank shall, without further act, be substituted in 2 ځ every such fiduciary capacity. Such substitution may be 4 made a matter of record in any county of this state by filing a certified copy of the order of substitution in the 5 6 office of the clerk of any district court in this state or by filing a certified copy of such order in the office of 7 the clerk and recorder of any county in this state to be by 8 9 such officer recorded and indexed in like manner and with 10 like effect as other orders and decrees of court are 11 recorded and indexed.

(6) Each designations in a will or other instrument 12 13 heretofore or hereafter executed, of a bank as fiduciary 14 shall be deemed a designation of the applicant bank 15 substituted for such bank pursuant to this section except 16 where such will or other instrument is executed after such 17 substitution and expressly negates the application of this Any grant in any such will or other such 18 section. 19 instrument of any discretionary power shall be deemed 20 conferred upon the applicant bank deemed designated as the 21 fiduciary pursuant to this section.

(7) A bank shall account jointly with the applicant
bank which has been substituted as fiduciary for such bank
pursuant to this section for the accounting period during
which the applicant bank is initially so substituted. Upon

1 substitution pursuant to this section, the affiliated bank for which substitution has been made shall deliver to such 2 з applicant bank all assets held by such affiliated bank as fiduciary (except assets held for accounts with respect of 4 5 which there has been no substitution pursuant to this 6. section) and upon such substitution all such assets shall 7 become the property of such applicant bank without the necessity of any instrument or of transfer or conveyance.* a 9 Section 28. Section 7-102, R.C.M. 1947, is amended to 10 read as follows:

"7-102. Articles of incorporation --- contents. 11 12 Whenever any number of persons, not less than five (5), 13 shall desire to incorporate a building and loan association. having for its object the conduct and operation of such an 14 15 association as defined in this act, they shall prepare and file articles of incorporation to that effect in the manner 16 17 specified in this act, specified;-such Such articles shall 18 be signed, sealed, and acknowledged in the form now provided by the statutes of this state for the conveyance of real 19 20 estatey and shall include the following:

21 <u>i*(1)</u> The the name of the association*, The-name-shall
22 which may not be the same asy-nor or too closely resemble?
23 that in use by any existing corporation established under
24 the laws of this state. The words "building and loan
25 association" or "savings and loan association" shall form a

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1 part of the name, and no a corporation not organized under 2 this act shall-be-entitled-to may not use a name embodying 3 said that combination of wordsta provided that the 4 associations now existing as of May 1. 1927. may continue 5 their present namest.

6 2*(2) The the principal office or place of business
7 of the association which shall be within this state;

8 3*(3) The the amount of its capital stock and the 9 number of shares into which the same shall be divided?, such 10 <u>The</u> capital stock shall be divided into shares having a par 11 value of one hundred-dollars-t\$100+801t.

12 $4\pi(4) \neq a$ provision that such association is organized 13 under this act for the purposes herein expressed;

14 <u>5v(5)</u> The the names and residences of the persons who 15 subscribed and acknowledged the said declaration, a majority 16 of whom shall be citizens of this state, and shall 17 thereafter be called incorporators."

18 Section 29. Section 7-112, R.C.M. 1947, is amended to 19 read as follows:

20 *7-112. Proxies. At least once every year the board of 21 directors of every building and loan association shall, by 22 resolution, direct cause the secretary of such association 23 ond--he--shall to mail to every stockholder of such 24 association a blank form of proxy, and the stockholder shall 25 have-the-right-and-privilege-of-withdrowing <u>may withdraw</u> his

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former proxy and of-substituting substitute another in its
 stead. Every proxy shall continue in force and be binding
 upon the stockholder until such proxy is revoked or an
 another substituted."

5 Section 30. Section 7-139, R.C.M. 1947, is amended to
6 read as follows:

7 #7-139. Obtaining property by fraudy ______ false reporty 8 ______ refusal to permit inspection of books. A director, 9 officer, agent, or employee of a building and loan 10 association <u>is guilty of a felony</u> who:

(1) Willfully willfully receives or possesses any of 11 12 its property, otherwise than in payment for a just demand, and with intent to defraudy: 13 14 (a) omits to make or direct directs to be made a full 15 and true entry of it in its books and accounts; 16 t2)(b) concurs concurs in omitting to make a material 17 entry thereof; 18 t3)(2) withfully willfully makes or concurs in making

19 or publishing a written report, exhibit_± or statement of the 20 association's affairs or pecuniary conditiony containing any 21 material statement which is false; or

22 (4)(3) Having having the custody or control of the 23 association's books, willfully refuses or neglects to make a 24 proper entry in the books as required by lawy or to exhibity 25 or allow them to be inspected and extracts to be taken from

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them by the department is-guilty-of-a-felony."
 Section 31. Section 7-156, R.C.M. 1947, is amended to
 read as follows:
 *7-156. Conversion of building-and-loan-and-other-home

5 financing---institutions into federal savings and loan 6 associations. Any building and loan association or other 7 home financing organization by whatever name or style it 8 may be designated, eligible to become a federal savings and 9 loan association may convert itself into a federal savings 10 and loan association by following the procedure hereinafter 11 outlinedwi

 $A_{T}(1)$ At any regular meeting of the shareholders of 12 any such association or at any special meeting of the 13 sharenolders of such associations in either case called to 14 consider such action and held in accordance with the laws 15 governing such association, such shareholders, by an 16 affirmative vote of the majority of said the shareholders, 17 in person or by proxys may declare by resolution the 18 determination to convert said the association into a federal 19 20 savings and loan association.

21 $B_{\Psi}(2)$ A copy of the minutes of such the meeting of the 22 shareholders verified by the affidavit of the president or 23 vice-president and the secretary of the meeting shall be 24 filed with the department of business regulation within ten 25 10 days after said the meeting vin-the-office-or-department

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of-this-state-having-supervision-of-such-association. Such
 <u>Ihe</u> verified copy of the minutes of such meeting when so
 filed shall be presumptive evidence of the holding and of
 the action of such meeting.

5 tw(3) Within a reasonable time and without any unnecessary delay after the adjournment of such meeting of 6 7 shareholders, such association shall take such any action as 8 may--be necessary to make it a federal savings and loan 9 associations and within ten 10 days after receipt of the 10 federal charter there shall be filed in-the-office-or 11 department--of--this--state--having--supervision---of---such 12 association with the department of business regulation a 13 copy of said the charter issued to such association by the 14 federal home loan bank board or a certificate showing the 15 organization of such association as a federal savings and 16 loan association certified by or on behalf of the federal 17 home loan bank board. Upon the filing of such instrument 18 such association shall cease to be a state association and shall thereafter be a federal savings and loan association.* 19 20 Section 32. Section 14-605. R.C.M. 1947. is amended to read as follows: 21 #14-605. Amendments. (1) The articles of incorporation 22

22 =14-50>. Amendments. [1] The articles of incorporation
 23 or the bylaws may be amended as provided in the bylaws.
 24 Amendments to the articles of incorporation or bylaws shall
 25 be submitted to the director of the department of business

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1 regulation who shall approve or disapprove the amendments 2 within sixty-{60} days. (2) Amendments shall become effective upon: 3 (a) approval in writing by the director, and for which 4 no fee shall may be charged; for-such-approvaly and 5 (b) IN THE CASE OF ARTICLES OF INCORPORATION. filing 6 7 with the secretary of state." Section 33. Section 14-665, R.C.M. 1947, is amended to ð q read as follows: 10 "14-665. Liquidation. (1) A credit union may elect to 11 dissolve voluntarily and liquidate its affairs in the manner

12 prescribed in this section and the applicable Montana 13 corporation laws. 14 (2) The board of directors shall adopt a resolution

15 recommending the credit union be dissolved voluntarily, and 16 directing that the question of liquidation be submitted to 17 the members.

18 (3) Within ten-(10) days after the board of directors decides to submit the question of liquidation to the 19 members, the president shall notify the director of the 20 21 department of business regulation thereof in writing. setting forth the reasons for the proposed action. Within 22 ten--(10) days after the members act on the question of 23 24 liquidation, the president shall notify the director in writing as to whether or not the members approved the 25

1 proposed liquidation.

2 (4) As soon as the board of directors decides to 3 submit the question of liquidation to the members, payment on shares, withdrawal of shares, making any transfer of shares to loans and interest, making investments of any 5 6 kind, and granting loans shall be suspended pending action 7 by members on the proposal to liquidate. On approval by the 8 members of such proposal, all such business transactions 9 shall be permanently discontinued. Necessary expenses of 10 operation shall, however, continue to be paid on 11 authorization of the board of directors or liquidating agent 12 during the period of liquidation.

13 (5) For a credit union to enter voluntary liquidation, 14 approval by a majority of the members in writing or by a 15 two-thirds (2/3) majority of the members present at a 16 regular or special meeting of the members is required. Where If authorization for liquidation is to be obtained at a 17 18 meeting of the members, notice in writing shall be given to 19 each member, by first-class first-class mail, at least ten 20 +10+ days prior to such meeting.

(6) A liquidating credit union shall continue in
existence for the purpose of discharging its debts,
collecting and distributing its assets, and doing all acts
required in order to wind up its business and may sue and be
sued for the purpose of enforcing such debts and obligations

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until its affairs are fully adjusted. 1 {7} The board of directors of or the liquidating agent ž shall use the assets of the credit union to pay: 3 (a) expenses incidental to liquidating, including any 4 surety bond that may be required; 5 (b) any liability due nonmembers; and ó 7 (c) special purpose thrift accounts as provided in this act. Assets then remaining shall be distributed to the 8 9 members proportionately to the shares held by each member as 10 of the date dissolution was voted. (8) As soon as the board of directors or the 11 liquidating agent determines that all assets from which 12 13 there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, 14 they he shall execute a certificate of dissolution on a form 15 prescribed by the department of-business-regulation and file 15 the same with the department, together with all pertinent 17 books and records of the liquidating credit union, with the 18 department-of--business--regulation whereupon such credit 19 union shall be dissolved." 20 Section 34. Section 15-2603, R.C.M. 1947, is amended 21 to read as follows: 22 #15-2603. Incorporators -- general powers -- capital 23 stock -- articles of incorporation. Nine 197 or more 24

1 state, who may desire to create a development credit corporation under the provisions of this acty for the 2 of promoting, developing, and advancing the 3 purpose prosperity and economic welfare of the state and, to that 4 end, to exercise the powers and privileges hereinafter 5 6. provided, may be incorporated in the following manner: 7 111 such Such persons shall by articles of incorporation filed in the manner prescribed in Title 15 of 8 the-Revised-Codes-of-Nontana-1947, under their hands and Q, 10 seals, set forth: 11 +2+(a) The the name of the corporation, which shall 12 include the words "Development Credit Corporation of 13 Montana**#":** 14 (2)(b) The the location of the principal office of the 15 corporation, but such corporation may have offices in such . 16 other places within the state as may be fixed by the board 17 of directorse: 18 (3)(c) The---purpose the purposes for which the 19 corporation is founded, which shall include the following: 20 teti) To to elect, appoint, and employ officers, agents, and employees; 21 22 (ii) to make contracts and incur liabilities for any of 23 the purposes of the corporation; providedy that the 24 corporation shall may not incur any secondary liability by 25 way of quaranty or endorsement of obligations of any person.

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persons, a majority of whom shall be residents of this

1 firm, corporation, joint-stock company, association, or 2 trust, or in any other manner;

3 totiii) to to borrow money from the members, nonmember 4 persons, firms, or corporations, and state and federal agencies, for any of the purposes of the corporation; to 5 issue therefor its bonds, debentures, notes, or other 6 7 evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust, or R 9 other lien on its property, franchises, rights, and 10 privileges of every kind and nature or any part thereof or interest therein, without securing stockholder or member 11 12 approval; providedy that no loan to the corporation shall 13 may be secured in any manner unless all outstanding loans to 14 the corporation shall-be are secured equally and ratably in 15 proportion to the unpaid balance of such loans and in the same mannersi 16 .

17 telivi to make loans to any person, firm, 18 corporation, joint-stock company, association, or trust, and to establish and regulate the terms and conditions with 19 respect to any such loans and the charges for interest and 20 21 service connected therewith ; provided, however, that the 22 corporation shell may not approve any application for a loan 23 unless and-until the person applying for said the loan shall 24 show shows that he has applied for the loan through ordinary 25 banking channels and that the loan has been refused by at

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1 least one bank or other financial institution*1

2 (d)[v] To to participate with any duly authorized
3 private lending agency, and city, state, and federal
4 governmental lending agencies in the making of loans=1

5 tet(vi) to to purchase, receive, hold, lease, or 6 otherwise acquirey and to sell, convey, transfer, leases or otherwise dispose of real and personal property, together 7 8 with such rights and privileges as may be incidental and 9 appurtemant thereto and the use thereof, including, but not 10 restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts 11 12 or enforcement of obligations -:

13 (f)(vii) To to acquire the good will, business, rights, 14 real and personal property, and other assets, or any part 15 thereofy or interest therein, of any persons, firms, 16 corporations, joint-stock companies, associations, or 17 trusts, and to assume, undertake, or pay the obligations, 18 debts, and liabilities of any such person, firm, 19 corporation, joint-stock company, association, or trust;

20 <u>(viii)</u> to acquire improved or unimproved real estate 21 for the purpose of constructing industrial plants or other 22 business establishments thereon or for the purpose of 23 disposing of such real estate to others for the construction 24 of industrial plants or other business establishments; and 25 <u>(ix)</u> to acquire, constructy or reconstruct, alter,

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repair, maintain, operate, sell, convey, transfer, lease, or
 otherwise dispose of industrial plants or business
 establishmentswi

fat(x) To to acquire, subscribe for, own, hold, sell, 4 assign, transfer, mortgage, pledger or otherwise dispose of 5 the stock, shares, bonds, debentures, notes, or other 6 securities and evidences of interest inr or indebtedness of r7 any person, firm, corporation, joint-stock company, 8 9 associations or trusty and while the owner or holder thereof to exercise all the rights, powers, and privileges of 10 11 ownership, including the right to vote thereonyl

12 (h)(xi) To to wortgage, pledge, or otherwise encumber 13 any property, rights or thing of value, acquired pursuant to 14 the powers contained in paragraphs--(e)v--(f)v--or--(g)v 15 subsections (l)(c)(vi) through (l)(c)(x) of this sections as 16 security for the payment of any part of the purchase price 17 thereofyi

18 (i) (xii) To--co-operate to cooperate with and avail 19 itself of the facilities of the state planning and economic 20 development department divisions of the department of community_affairs and any similar governmental agencies; and 21 22 to co-operate cooperate with, and assist, and otherwise encourage organizations in the various communities of the 23 state in the promotion, assistance, and development of the 24 25 business prosperity and economic welfare of such communities 1 or of this state or of any part thereofwi

2 (j)[xiii] To to accept gifts, donations, bequests,
3 devises, or grants from any person, corporation,
4 association, or governmental agency, whether state, federal,
5 or municipal*;

t+1(xiy) To to do all acts and things necessary or
 convenient to carry out the powers expressly granted in this
 actv:

9 (4)(d) The-articles-of-incorporation-shall--set-forth 10 the amount of total authorized capital stock and the number 11 of shares in which it is divided, the par value of each share, and the amount of capital stock with which it will 12 13 commence business, and, if there is more than one class of stock, a description of the different classes, and the names 14 15 and post-office addresses of the subscribers of stock and 14 the number of shares subscribed by each. The aggregate of the subscription shall be the amount of capital with which 11 the corporation will commence business. 2.00

14 (5)(2) The articles of incorporation may also contain any provision consistent with the laws of this state for the regulation of the affairs of the corporation or creating, defining, limiting, and regulating its powers. The articles of incorporation shall be in accordance with the provisions of Title 15, Revised--Codes--of--Montana--1947y so far as consistent with this act."

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Section 35. Section 47-209, R.C.H. 1947, is amended to
 read as follows:

#47-209. License renewal fee ----failure--to-pay--з. 4 effect----license----when-in-force. Every licensee shall. 5 on or before the--first--day--of December 1, pay to the department the sum of one--hundred--twenty-five--dollars 6 7 t\$125w00) for each license held as a license license fee 8 for the succeeding calendar year. Failure to pay such 9 license fee within the time prescribed shall automatically revoke such license." 10

Section 36. Section 47-211, R.C.M. 1947, is amended to read as follows:

13 "47-211. Installment payment -- contract periods 14 (1) No licensee shall may enter into any contract of loan(15 (a) of three-hundred-dollars-(\$300) or less, exclusive 16 of charges, under this-act which the borrower agrees to make 17 any scheduled repayment of principal more than twenty-one 18 (21) calendar months from the date of making such contracty: 19 nor-any-contract-of-loan

20 <u>(b)</u> for more than three-hundred-dollars-(\$300) to and 21 including one-thousand-dollars-(\$1,000), exclusive of 22 charges, under which the borrower agrees to make any 23 scheduled repayment of principal more than twenty-five-(25) 24 calendar months from the date of making<u>vi nor-any-contract</u> 25 of-loan SB 0006/03

1 (c) for more than one-thousand-dollars-(\$1,000) to and 2 including two--thousand--dollars--(\$2,000), exclusive of 3 charges, under which the borrower agrees to make any 4 scheduled repayment of principal more than thirty-seven-(37) 5 calendar months from the date of making; nor--any--contract 6 of-loan or

for more than two-thousand-dollars-(\$2,000)1 to
and including two-thousand-five--hundred-dollars--(\$2,500)1
exclusive of charges, under which the borrower agrees to
make any scheduled repayment of principal more than
thirty-seven-(37) calendar months from the date of making.

12 (2) Every loan contract shall require payment of principal and charges in installments which shall be payable 13 at approximately equal periodic intervals_ except that 14 15 payment dates may be omitted to accommodate borrowers with seasonal incomes. No installment contracted for shall may be 16 17 substantially larger than any preceding installment. When a 18 loan contract provides for monthly installments, the first installment may be payable at any time within forty-five 19 20 145+ days of the date of the loan and the charges for the number of days in excess of thirty-{30} from the date of 21 22 making may be added to the scheduled amount of said the 23 installments."

24 Section 37. Section 47-220, K.C.M. 1947, is amended to
25 read as follows:

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#47-220. Wage assignments -- limitations. (1) The 1 payment in money, credit, goods, or things in action, as 4 consideration for any sale or assignment of y or order for 3 payment of wages, salary, commission, or other 4 the compensation for services, whether earned or to be earned, 5 shall, for the purpose of regulation under this act, be 6 deemed considered a loan secured by such assignment, and the 7 amount by which the assigned compensation exceeds the amount 8 9 of the consideration actually paidy shall, for the purposes of regulation under this act, be deemed considered interest 10 or charges upon the loan from the date of payment to the 11 date the compensation is payable. Such transactions shall be 12 governed by and be subject to the provisions of this act. 13 (2) Any assignment or other transfer to a licensee or 14 for the benefit of a licensee, of salary, wages, 15 commissions, or other compensation for services, must be 16 limited to not exceeding ten-per-cent-(10%) of such salary, 17 wages, commissions, or other compensation owing at the time 18 19 of the notice to the debtor's employer----hereinefter providedy and thereafter to become owing. Providedy-howevery 20 However, no such assignment or order shall-be is valid 21 22 unless it is in writing, signed in person by the borrowery or if the porrower is married, unless it is signed in person 23 24 by both husband and wife, provided that written assent of a spouse shall-not-be is not required when husband and wife 25

have been and are living separate and apart when such 1 assignment or order is made. Such-notice-shall-be-given-only 2 З if if UNLY_IE the debtor defaults in payment of the whole or some part of the loan for which such assignment or transfer 4 is security, notice-shall SHALL NOTICE be given to the 5 debtor's employer of such assignment or transfer. Such 6 ť notice must be served on the employer or a managing agent of such employer, must be verified by the oath of the licensee 8 9 or his agent, and must include: 10 (a) t a correct copy of the assignment: 11 (b) A a statement of the amount of such loan and the 12 amount due and unpaid thereone: 13 (c) A g copy of this section. 14 (3) The acceptance and honoring of any assignment shall 15 be at the option of the employer." 16 Section 38. Section 47-226, R.C.M. 1947, is amended to read as follows: 17 18 #47-226. Access to records -- witnesses. For the 19 purpose of this section chapter the department or its duly authorized representatives shall have--and be given free 20 access to the offices and places of business, files, safes, 21 22 and vaultsy of all such personsy and shall-have-authority-to may require the attendance of any person and to examine him 23 24 under oath relative to such loans or such business or to the 25 subject matter of any examination, investigations or hearing

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and snall-have-authority-to may require the production of 1 books, accounts, papers, and records. In the event of 2 3 disobedience to any subpoena or other process issued by the department or failure to produce any books, accounts, 4 5 papers1 and records, the department may invoke the aid of any district court of this state in requiring the evidence 6 7 and testimony of witnesses and the production of books, 8 accounts, papers, and records." Section 39. Repealer. Section 5-1125, R.C.M. 1947, is 9

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repealed.

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