

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 act title, ~~shall be~~  
14   ~~construed to mean means~~ any corporation which ~~shall have has~~  
15   been incorporated to conduct the business of receiving money  
16   on deposit, or transacting a trust or investment business as  
17   ~~hereinafter defined.~~

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 is~~ 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, ~~provided, that nothing herein shall apply~~  
24   applies to or ~~include includes~~ money or its equivalent left  
25   in escrow, or left with an agent pending investment in real

1   estate or securities for or on account of his principal.

2       (3) ~~It shall be is~~ unlawful for any corporation,  
3   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) ~~Commercial Banks,~~ commercial banks;  
8       (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 apply to~~  
12   ~~any person, firm or association now doing a private banking~~  
13   ~~business; provided, however, that said private banks~~  
14   ~~hereinafter referred to shall come under all of the~~  
15   ~~provisions of this act which may be fairly applicable~~  
16   ~~thereto; provided further, however, that this act shall not~~

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 Montana, 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  
25   of authorization in accordance with ~~sections 5-607~~ 5-610

1 through 5-614."

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

4 "5-403. 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 (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. ~~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 regulation, 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 state.~~

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 Deposit Insurance Corporation~~ federal deposit  
4 insurance corporation.

5 (4) The department shall, within ~~sixty~~ (90) days  
6 after taking charge of an insolvent bank, file with the  
7 district court having jurisdiction a complete inventory of  
8 all of the property and assets of the insolvent bank, such  
9 as furniture, fixtures, real estate, mortgages, bonds, and  
10 notes, secured and unsecured. It shall also every ~~six~~ (6)  
11 months, or more often, 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  
14 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.M. 1947, is amended to

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) ~~It 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;

12 (b) ~~It 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) ~~It is~~ is conveyed to it in satisfaction of debts  
16 previously contracted in the course of its business;

17 (d) ~~It is~~ 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.M. 1947, is amended to  
3 read as follows:

4 "5-506. Limitation on real estate loans. (1) A  
5 ~~commercial~~ 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 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~~ {5} 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  
16 real estate offered as security and for a term not longer  
17 than ~~twenty~~ {20} years if the loan is secured by an  
18 amortized mortgage, deed of trust, or similar instrument,  
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~~ {20}  
22 years; and

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

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

3 (2) Loans made to finance the construction of  
4 residential or farm buildings and having maturities of not  
5 to exceed ~~six (6)~~ months, 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  
8 loans secured by real estate within the meaning of this  
9 section, but shall be classed as ordinary commercial loans.  
10 A ~~commercial~~ 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  
16 loaned 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 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  
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.

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 ~~Congress~~ 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 ~~Congress~~  
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  
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  
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. ~~"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:

1       "5-508. ~~Business prohibited unless under department~~  
2 ~~use of certain words prohibited — court may enjoin when~~  
3 ~~advertising as bank prohibited — trade names restricted.~~

4       (1) A person, firm, company, ~~copartnership~~ partnership, or  
5 corporation, either domestic or foreign, not subject to the  
6 supervision of the department, and not required by the  
7 provisions of this act to report to it, and which has not  
8 received a certificate to do a banking business from the  
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, or

18       ~~or that~~ (ii) deposits are received there or payments  
19 made on check, or

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

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

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

6       (3) That person, firm, company, ~~copartnership~~  
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  
10 business in the way or manner of a bank, savings bank,  
11 trust, or investment company, or in a manner which leads  
12 the public to believe that its business is that of a bank,  
13 savings bank, trust, or investment company.

14       (4) A person, firm, company, ~~copartnership~~  
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 it, 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 "bank," "banker,"  
21 "banking," "savings bank," "savings," "trust,"  
22 "trustee," "trust company," or "investment company."

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

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  
4 an injunction restraining that person, firm, company,  
5 ~~co~~partnership partnership, or corporation during pendency of  
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~~  
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  
16 bank ~~shall~~ may purchase, agree to purchase, or underwrite  
17 any bond issue in excess of ~~ten per centum~~ 10% of its  
18 assets, except bonds of the United States, of the state of  
19 Montana, or of the cities, towns, counties, or school  
20 districts of this state."

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

23 "~~5-519. Obtaining property by fraud false report~~  
24 ~~refusal to permit inspection of books~~ Fraud by director,  
25 officer, or employee. A director, officer, agent, or

1 employee of a bank is guilty 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 defraud;

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 ~~(3)(b) Concurs concurs~~ in omitting to make any  
8 material entry thereof; ~~or~~

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 ~~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 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,

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

5 Section 10. Section 5-604, R.C.B. 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.B. 1947, is amended to  
13 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 62A-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 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 (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 (7) The board members, except the chairman, shall be  
10 paid ~~twenty-five dollars (\$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."

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

18 "5-610. Powers and duties 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

1 the duties and powers relate to banking."

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  
5 shall adopt rules necessary for the administration of ~~this~~  
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  
9 authorization of new banks. Such rules shall contain  
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.M. 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

1 shall report to the department within ~~ten~~ ~~(10)~~ days after  
2 declaring any dividend, showing the amount of the dividend  
3 and the amount of net earnings in excess of the dividend.  
4 The ~~statement~~ report shall be attested as provided ~~for~~ in  
5 ~~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 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 bank,  
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 thereof, 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 insolvent,



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

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  
 19 of United States bonds, and to provide for the circulation  
 20 and redemption thereof," approved June 3, 1864, and ~~of~~  
 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, or have  
 24 executed a written consent authorizing its directors to make  
 25 the certificate required therefor by the laws of the United

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  
 4 such corporation. The cashier of the bank shall publish  
 5 notice thereof for ~~thirty~~ (30) days in the newspaper which  
 6 the directors select, and send a like printed notice by mail  
 7 or otherwise to all nonvoting or dissenting stockholders,  
 8 and notify the department of business regulation that the  
 9 bank has decided to become a corporation under the laws of  
 10 the United States."

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

13 "5-1019. Special examination defined. ~~As a~~ A special  
 14 examination is an examination made by the department  
 15 otherwise than in the ordinary routine of the department,  
 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 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

1 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.

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 ~~under, into and with the charter of either existing~~  
 8 ~~bank hereinafter 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 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  
 16 stock of such consolidated or merged bank shall may not be  
 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 (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,

1 duty, privilege, and obligation as fiduciary, together with  
 2 title to every species of property, real, personal, and  
 3 mixed, of such consolidating or merging bank and banks  
 4 shall, without the necessity of any instrument of transfer,  
 5 ~~be and become~~ consolidated or merged and continued in and  
 6 held, enjoyed, and/or assumed by the consolidated or merged  
 7 bank, and such consolidated bank shall have and enjoy the  
 8 right equal as to priorities with any other applicant to  
 9 appointment by the courts to the offices of executor,  
 10 administrator, guardian, 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 "banks" as used in this section,~~  
 15 ~~shall be held to include commercial banks, savings banks,~~  
 16 ~~trust companies, investment companies and other such~~  
 17 ~~corporations carrying on the business of banking, trust~~  
 18 ~~company or investment company under the laws of this state~~  
 19 ~~or doing business in this state under the national banking~~  
 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

1 bookkeeping and accounting by state banks, including the  
 2 keeping of reasonable credit information, ~~or~~ information in  
 3 connection with assets, ~~and for or~~ information in connection  
 4 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~~ 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.

14 ~~(2)~~ (2) The board of directors shall by order ~~del~~ entered  
 15 upon the ~~minutes~~ minute books of the board designate the  
 16 officers and employees to be bonded and the amount of bonds  
 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~~  
 19 subject to approval by the department, and the bonds ~~to~~  
 20 shall be in such form as ~~shall be is~~ provided or approved by  
 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 directors.

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

1 kept in the custody of the bank subject to inspection by  
 2 examiners from the department; provided, as far as possible,  
 3 they ~~shall~~ may not be placed in the custody of the officer  
 4 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:

7 "5-1039. Giving security for deposit prohibited --  
 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  
 12 ~~shall be is~~ unenforceable, ~~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  
 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  
 20 United States."

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 mean any corporation~~ as defined in section

1 5-102, ~~including commercial banks and trust companies, as~~  
 2 ~~more 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 Saturdays, ~~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,  
 10 required, or permitted to be performed on a Saturday 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 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

1 read as follows:

2 "5-1115. Claims — partial payments. (1) The  
 3 department need not await the expiration of the time allowed  
 4 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  
 22 liquidation, declare and pay dividends to all creditors of  
 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

1 expiration of the period, or at any other time, has been  
 2 paid more than the ~~pro rata~~ pro rata amount due him as  
 3 compared with the amounts then paid other creditors, nothing  
 4 more may be paid that creditor until the payment made other  
 5 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 upon  
 14 the department only after they have been filed and allowed  
 15 by the department, and ~~only then are~~ 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  
 19 of the bank. No assigned claims may be offset against  
 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~~ 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  
 4 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 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, ~~and, as~~ as security  
 11 for the loan the liquidating agent may pledge or mortgage  
 12 the assets and properties thereof, for the purpose of paying  
 13 depositors or creditors in part or in full, ~~after applying~~  
 14 ~~to and obtaining the approval of the department and the~~  
 15 ~~district court of the county in which the bank, or trust, or~~  
 16 ~~investment company is located, upon the same 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. Transfer of fiduciary relationships between  
 21 affiliated banks. (1) Any bank which has received approval  
 22 pursuant to ~~section 6~~ [5-1506] to maintain a trust office in  
 23 the same building with the main office of any affiliated  
 24 bank may file its verified application in the district court  
 25 of the county in which its main office is located requesting

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  
 11 fiduciary account designated therein, the name and address  
 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)  
 15 ~~inclusive~~, of ~~section~~ 5-1507.

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.

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

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

15 (5) On such date of hearing, upon finding that due  
 16 notice has been given as required by this act and upon  
 17 finding that the applicant bank has received the requisite  
 18 approval from the department ~~of business regulation~~, or the  
 19 comptroller of the currency if the applicant bank is a  
 20 national banking association, the district court shall enter  
 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

1 pursuant to this section. Upon entry of such order, the  
 2 applicant bank shall, without further act, be substituted in  
 3 every such fiduciary capacity. Such substitution may be  
 4 made a matter of record in any county of this state by  
 5 filing a certified copy of the order of substitution in the  
 6 office of the clerk of any district court in this state or  
 7 by filing a certified copy of such order in the office of  
 8 the clerk and recorder of any county in this state to be by  
 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.

12 (6) Each designation<sub>2</sub> in a will or other instrument  
 13 heretofore or hereafter executed<sub>2</sub> 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  
 18 section. Any grant in any such will or other such  
 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.

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. Upon

1 substitution pursuant to this section, the affiliated bank  
 2 for which substitution has been made shall deliver to such  
 3 applicant bank all assets held by such affiliated bank as  
 4 fiduciary (except assets held for accounts with respect of  
 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  
 8 necessity of any instrument ~~or~~ of transfer or conveyance."

9 Section 28. Section 7-102, R.C.M. 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 ~~(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  
 16 file articles of incorporation to that effect in the manner  
 17 specified in this act, ~~specified, such~~ 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 ~~4-(1)~~ 4-(1) The the name of the association, ~~The name shall~~  
 22 which may not be the same as, ~~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

1 part of the name, and ~~as~~ a corporation not organized under  
 2 this act ~~shall be entitled to~~ may not use a name embodying  
 3 ~~said~~ that combination of words, provided, that the  
 4 associations ~~now~~ existing as of May 1, 1927, may continue  
 5 their present names,

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, ~~each~~  
 10 The capital stock shall be divided into shares having a par  
 11 value of ~~one hundred dollars (\$100.00)~~,

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

14 ~~5-(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, 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 ~~and 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 withdrawing~~ may withdraw his

1 former proxy and ~~of substituting~~ substitute another in its  
 2 stead. Every proxy shall continue in force and be binding  
 3 upon the stockholder until such proxy is revoked or ~~as~~  
 4 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 fraud, ~~==~~ false report,  
 8 ~~==~~ refusal to permit inspection of books. A director,  
 9 officer, agent, or employee of a building and loan  
 10 association is guilty of a felony who:

11 (1) ~~Willfully~~ willfully receives or possesses any of  
 12 its property, otherwise than in payment for a just demand,  
 13 and with intent to defraud;

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)~~ ~~Concurs~~ 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 law, or to exhibit,  
 25 or allow them to be inspected and extracts to be taken from



1 then by the department ~~is guilty of a felony.~~"

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

4 "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 outlined;

12 ~~1. (1)~~ At any regular meeting of the shareholders of  
13 any such association or at any special meeting of the  
14 shareholders of such association, in either case called to  
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,  
18 in person or by proxy, may declare by resolution the  
19 determination to convert ~~said the~~ association into a federal  
20 savings and loan association.

21 ~~2. (2)~~ A copy of the minutes of ~~said 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, ~~in the office or department~~

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 presumptive evidence of the holding and of  
4 the action of such meeting.

5 ~~C. (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 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  
19 shall thereafter be a federal savings and loan association."

20 Section 32. Section 14-605, R.C.M. 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

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, R.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 Montana  
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 ~~ten~~ {10} days after the board of directors  
18 decides to submit the question of liquidation to the  
19 members, the president shall notify the director of the  
20 department of business regulation thereof in writing,  
21 setting forth the reasons for the proposed action. Within  
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  
3 on shares, withdrawal of shares, making any transfer of  
4 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 members of such proposal, all such business transactions  
8 shall be permanently discontinued. Necessary 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 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.

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

1 (7) The board of directors ~~of~~ or the liquidating agent  
2 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

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) 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 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  
16 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 ~~(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 (1) ~~each~~ Such persons shall by articles of  
7 incorporation filed in the manner prescribed in Title 15 ~~of~~  
8 ~~the Revised Code 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 ~~(2)(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)(i)~~ to 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

1 trust, or in any other manner;

2 ~~(b)(iii)~~ 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 lien 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; provided, 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 ~~(c)(iv)~~ 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  
20 service connected therewith; provided, however, that the  
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;

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

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

12 ~~(f)(vii)~~ 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 estate  
20 for the purpose of constructing industrial plants or other  
21 business establishments thereon or for the purpose of  
22 disposing of such real estate to others for the construction  
23 of industrial plants or other business establishments; ~~and~~

24 (ix) to acquire, construct, or reconstruct, alter,  
25 repair, maintain, operate, sell, convey, transfer, lease, or

1 otherwise dispose of industrial plants or business  
2 establishments-;

3 ~~(9)(x)~~ To 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 securities and evidences of interest in, or indebtedness of,  
7 any person, firm, corporation, joint-stock company,  
8 association, or trust, and while the owner or holder thereof  
9 ~~to~~ exercise all the rights, powers, and privileges of  
10 ownership, including the right to vote thereon-;

11 ~~(4)(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 (e), (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-;

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

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

5 ~~(4)(xiv)~~ To to do all acts and things necessary or  
6 convenient to carry out the powers expressly granted in this  
7 act-;

8 ~~(4)(d)~~ The articles of incorporation shall set forth  
9 the amount of total authorized capital stock and the number  
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  
12 commence business, and, if there is more than one class of  
13 stock, a description of the different classes, and the names  
14 and post-office addresses of the subscribers of stock and  
15 the number of shares subscribed by each. The aggregate of  
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, ~~Revised Codes of Montana 1947,~~ so far as  
24 consistent with this act.\*

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

1 read as follows:

2 "47-209. License renewal fee ~~failure to pay~~  
3 ~~effect license when in force~~. Every licensee shall,  
4 on or before ~~the first day of~~ December 1, pay to the  
5 department the sum of ~~one hundred twenty five dollars~~  
6 ~~(\$125.00)~~ for each license held as a ~~licensee~~ license fee  
7 for the succeeding calendar year. Failure to pay such  
8 license fee within the time prescribed shall automatically  
9 revoke such license."

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) No licensee shall may enter into any contract of loan;  
14 (a) of ~~three hundred dollars~~ (\$300) or less, exclusive  
15 of charges, under ~~this act~~ 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 loan~~

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 making; ~~nor any contract~~  
5 ~~of loan or~~

6 (d) 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.

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

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

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

1 payment in money, credit, goods, or things in action, as  
 2 consideration for any sale or assignment of, or order for  
 3 the payment of wages, salary, commission, or other  
 4 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 ~~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 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 have been and are living separate and apart when such

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  
 4 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 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 47-226, R.C.M. 1947, is amended to  
 16 read as follows:

17 "47-226. Access to records — witnesses. For the  
 18 purpose of this ~~section~~ chapter the department or its duly  
 19 authorized representatives shall ~~have~~ and be given free  
 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 ~~to~~ 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

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

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

-End-



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LC0024

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.)

Section 1. 5-102. The provisions in this section for 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.

Section 2. 5-202.1. The internal reference in this section 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...."

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

Section 5. 5-506. 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~~7-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. 5-517. Added an "or" and changed "shall" to "may" for grammatical reasons.

Section 8. 5-519. 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. 5-530. Deleted two "and"s and added "or" for grammatical reasons.

Section 10. 5-604. Changed "director of business regulation" to "director of the department of business regulation" to accurately reflect title.

Section 11. 5-609. 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. 5-610. Changed "director of business regulation" to "director of the department of business regulation" to accurately reflect title.

Section 13. 5-611. 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. 5-1002. Changed "of" to "under" for grammatical consistency.

Section 18. 5-1019. Changed "and" to "or" for grammatical reasons.

Section 19. 5-1021. 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 C). The section is rewritten to maintain this distinction. The requirement of ratification by shareholders is also clarified.

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

Section 21. 5-1032. Section is entirely rewritten to correct multiple grammatical errors.

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

Section 23. 5-1055. 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. 5-1115. 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. 5-1126. 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. 7-102. 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. 7-156. 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. 14-605(2). 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. 14-665(7). 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. 47-209. Changed "licensee" to "license" to correct obvious error.

Section 36. 47-211. 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. 47-226. Changed "section" to "chapter" to extend authority to entire chapter as was originally intended.

Section 39. 5-1125. 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.

Approved by Committee  
on Business and Industry

SENATE BILL NO. 6

INTRODUCED BY HAZELBAKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT CORPORATIONS, AND CONSUMER LOAN BUSINESSES."

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

Section 1. Section 5-102, R.C.M. 1947, is amended to read as follows:

"5-102. Institutions to which act is applicable. (1) The word "Bank" "bank" as used in this ~~act~~ title, ~~shall be construed to mean~~ means any corporation which ~~shall have~~ has been incorporated to conduct the business of receiving money on deposit, or transacting a trust or investment business as ~~hereinafter defined, AS DEFINED IN THIS TITLE.~~

(2) The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business, ~~shall be deemed to be~~ is doing a commercial or savings bank business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, or other receipt, ~~provided, that nothing herein shall apply~~ applies to or ~~include~~ includes money or its equivalent left in escrow, or left with an agent pending investment in real

estate or securities for or on account of his principal.

(3) ~~It shall be~~ is unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within this state, except by means of a corporation duly organized for such purpose.

(4) Banks are divided into the following classes:

(a) ~~Commercial Banks,~~ commercial banks;

(b) ~~Savings Banks,~~ savings banks;

(c) ~~Trust Companies,~~ trust companies;

(d) ~~Investment Companies,~~ investment companies.

~~provided, further, however, that this act shall not apply to any person, firm or association now doing a private banking business; provided, however, that said private banks hereinabove referred to shall come under all of the provisions of this act which may be fairly applicable thereto; provided further, however, that this act shall not~~

(5) This title does not apply to any investment company or corporation, ~~heretofore~~ previously established prior to March 8, 1927, under authority of the law of Montana, not accepting, receiving, ~~and or~~ and holding money on deposit."

Section 2. Section 5-202.1, R.C.M. 1947, is amended to read as follows:

"5-202.1. Board to refuse or approve application. The board may refuse or approve an application for a certificate of authorization in accordance with ~~sections 5-607~~ 5-610

1 through 5-614."

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

4 "5-403. 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 (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. 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 regulation, 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 state.

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 Deposit Insurance Corporation~~ federal deposit  
4 insurance corporation.

5 (4) The department shall, within ~~ninety~~ (90) days  
6 after taking charge of an insolvent bank, file with the  
7 district court having jurisdiction a complete inventory of  
8 all of the property and assets of the insolvent bank, such  
9 as furniture, fixtures, real estate, mortgages, bonds, and  
10 notes, secured and unsecured. It shall also every ~~six~~ (6)  
11 months, or more often, 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  
14 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.M. 1947, is amended to

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) ~~It 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;

12 (b) ~~It 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) ~~It is~~ is conveyed to it in satisfaction of debts  
16 previously contracted in the course of its business;

17 (d) ~~It is~~ 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.M. 1947, is amended to  
3 read as follows:

4 "5-506. Limitation on real estate loans. (1) A  
5 ~~commercial~~ 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 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~~ (5) 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  
16 real estate offered as security and for a term not longer  
17 than ~~twenty~~ (20) years if the loan is secured by an  
18 amortized mortgage, deed of trust, or similar instrument,  
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~~ (20)  
22 years; and

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

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

3 (2) Loans made to finance the construction of  
4 residential or farm buildings and having maturities of not  
5 to exceed ~~six~~ (6) months, 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  
8 loans secured by real estate within the meaning of this  
9 section, but shall be classed as ordinary commercial loans.  
10 A ~~commercial~~ 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  
16 loaned 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 or ~~participated~~ 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  
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.

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 ~~Congress~~ 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 ~~Congress~~  
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  
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  
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. ~~"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:



1       ~~"5-508. Business prohibited unless under department~~  
 2 ~~use of certain words prohibited court may enjoin then~~  
 3 ~~advertising as bank prohibited — trade names restricted.~~

4       (1) A person, firm, company, ~~copartnership~~ partnership, or  
 5 corporation, either domestic or foreign, not subject to the  
 6 supervision of the department, and not required by the  
 7 provisions of this act to report to it, and which has not  
 8 received a certificate to do a banking business from the  
 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; or

18       ~~or that~~ (ii) deposits are received there or payments  
 19 made on ~~check~~ CHECKS; or

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

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

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

6       (3) That person, firm, company, ~~copartnership~~  
 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  
 10 business in the way or manner of a bank, savings bank,  
 11 trust, or investment company, or in a manner which leads  
 12 the public to believe that its business is that of a bank,  
 13 savings bank, trust, or investment company.

14       (4) A person, firm, company, ~~copartnership~~  
 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 it, 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 "bank," "banker,"  
 21 "banking," "savings bank," "savings," "trust,"  
 22 "trustee," "trust company," or "investment company."

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~~

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  
4 an injunction restraining that person, firm, company,  
5 ~~copartnership partnership~~, or corporation during pendency of  
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~~  
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  
16 bank ~~shall~~ may purchase, agree to purchase, or underwrite  
17 any bond issue in excess of ~~ten per centum~~ 10% of its  
18 assets, except bonds of the United States, of the state of  
19 Montana, or of the cities, towns, counties, or school  
20 districts of this state."

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

23 "~~5-519. Obtaining property by fraud false report~~  
24 ~~refusal to permit inspection of books~~ Fraud by director,  
25 officer, or employee. A director, officer, agent, or

1 employee of a bank is guilty 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 defraud;

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~~ concurrs in omitting to make any  
8 material entry thereof; ~~or~~,

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 ~~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 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,

1 with any interest due thereon, to the person in whose name  
2 the deposit ~~shall have been~~ was made, and the receipt of  
3 such minor ~~shall be~~ is a sufficient release or discharge for  
4 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 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.H. 1947, is amended to  
13 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 (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 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 (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 (7) The board members, except the chairman, shall be  
10 paid ~~twenty-five dollars (\$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."

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

18 "5-610. Powers and duties 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~~

1 the duties and powers relate to banking."

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  
5 shall adopt rules necessary for the administration of ~~this~~  
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  
9 authorization of new banks. Such rules shall contain  
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.M. 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

1 shall report to the department within ~~ten~~ ~~(10)~~ days after  
2 declaring any dividend, showing the amount of the dividend  
3 and the amount of net earnings in excess of the dividend.  
4 The statement report shall be attested as provided ~~for~~ in  
5 ~~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 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 bank,  
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 thereof, 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 insolvent,

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

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  
 19 of United States bonds, and to provide for the circulation  
 20 and redemption thereof," approved June 3, 1864, and ~~of~~  
 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, or have  
 24 executed a written consent authorizing its directors to make  
 25 the certificate required therefor by the laws of the United

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  
 4 such corporation. The cashier of the bank shall publish  
 5 notice thereof for ~~thirty~~ (30) days in the newspaper which  
 6 the directors select, and send a like printed notice by mail  
 7 or otherwise to all nonvoting or dissenting stockholders,  
 8 and notify the department of business regulation that the  
 9 bank has decided to become a corporation under the laws of  
 10 the United States."

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

13 "5-1019. Special examination defined. ~~It is a special~~  
 14 examination is an examination made by the department  
 15 otherwise than in the ordinary routine of the department,  
 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 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

1 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.

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 ~~under, into and with the charter of either existing~~  
 8 ~~bank hereinafter 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 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  
 16 stock of such consolidated or merged bank shall may not be  
 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 (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,

1 duty, privilege, and obligation as fiduciary, together with  
 2 title to every species of property, real, personal, and  
 3 mixed, of such consolidating or merging bank and banks  
 4 shall, without the necessity of any instrument of transfer,  
 5 ~~be and~~ become consolidated or merged and continued in and  
 6 held, enjoyed, and ~~or~~ assumed by the consolidated or merged  
 7 bank, and such ~~consolidated~~ bank shall have and enjoy the  
 8 right equal as to priorities with any other applicant to  
 9 appointment by the courts to the offices of executor,  
 10 administrator, guardian, ~~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 "banks" as used in this section,~~  
 15 ~~shall be held to include commercial banks, savings banks,~~  
 16 ~~trust companies, investment companies and other such~~  
 17 ~~corporations carrying on the business of banking, trust~~  
 18 ~~company or investment company under the laws of this state~~  
 19 ~~or doing business in this state under the national banking~~  
 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

1 bookkeeping and accounting by state banks, including the  
 2 keeping of reasonable credit information, ~~or~~ information in  
 3 connection with assets, ~~and for or~~ information in connection  
 4 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~~ 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.

14 ~~(2)~~ (2) The board of directors shall by order ~~and~~ entered  
 15 upon the ~~minutes~~ minute books of the board designate the  
 16 officers and employees to be bonded and the amount of bonds  
 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~~  
 19 subject to approval by the department, ~~and~~ the bonds ~~to~~  
 20 ~~shall~~ be in such form as ~~shall be is~~ provided or approved by  
 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 directors.

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

1 kept in the custody of the bank subject to inspection by  
 2 examiners from the department; provided, as far as possible,  
 3 they ~~shall~~ may not be placed in the custody of the officer  
 4 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:

7 "5-1039. Giving security for deposit prohibited —  
 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  
 12 ~~shall be is~~ unenforceable, ~~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  
 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  
 20 United States."

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 mean any corporation~~ as defined in ~~section~~

1 5-102, ~~including commercial banks and trust companies, as~~  
 2 ~~more 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 Saturdays, ~~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,  
 10 required, or permitted to be performed on a Saturday 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 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

1 read as follows:

2 "5-1115. Claims — partial payments. (1) The  
 3 department need not await the expiration of the time allowed  
 4 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  
 22 liquidation, declare and pay dividends to all creditors of  
 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



1 expiration of the period, or at any other time, has been  
 2 paid more than the ~~pro rata~~ pro rata amount due him as  
 3 compared with the amounts then paid other creditors, nothing  
 4 more may be paid that creditor until the payment made other  
 5 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 upon  
 14 the department only after they have been filed and allowed  
 15 by the department, and ~~only then are~~ 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  
 19 of the bank. No assigned claims may be offset against  
 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  
 4 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 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, ~~and, as~~ as security  
 11 for the loan the liquidating agent may pledge or mortgage  
 12 the assets and properties thereof, for the purpose of paying  
 13 depositors or creditors in part or in full, ~~after applying~~  
 14 ~~to and obtaining the approval of the department and the~~  
 15 ~~district court of the county in which the bank, or trust or~~  
 16 ~~investment company is located, 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. Transfer of fiduciary relationships between  
 21 affiliated banks. (1) Any bank which has received approval,  
 22 pursuant to ~~section 6~~ [5-1506] to maintain a trust office in  
 23 the same building with the main office of any affiliated  
 24 bank may file its verified application in the district court  
 25 of the county in which its main office is located requesting

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  
 11 fiduciary account designated therein, the name and address  
 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 f(1)(a) to through f(1)(e)  
 15 ~~inclusive~~, of section 5-1507.

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.

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

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

15 (5) On such date of hearing, upon finding that due  
 16 notice has been given as required by this act and upon  
 17 finding that the applicant bank has received the requisite  
 18 approval from the department ~~of business regulation~~, or the  
 19 comptroller of the currency if the applicant bank is a  
 20 national banking association, the district court shall enter  
 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

1 pursuant to this section. Upon entry of such order, the  
 2 applicant bank shall, without further act, be substituted in  
 3 every such fiduciary capacity. Such substitution may be  
 4 made a matter of record in any county of this state by  
 5 filing a certified copy of the order of substitution in the  
 6 office of the clerk of any district court in this state or  
 7 by filing a certified copy of such order in the office of  
 8 the clerk and recorder of any county in this state to be by  
 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.

12 (6) Each designation, in a will or other instrument  
 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  
 18 section. Any grant in any such will or other such  
 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.

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. Upon

1 substitution pursuant to this section, the affiliated bank  
 2 for which substitution has been made shall deliver to such  
 3 applicant bank all assets held by such affiliated bank as  
 4 fiduciary (except assets held for accounts with respect of  
 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  
 8 necessity of any instrument ~~of~~ of transfer or conveyance."

9 Section 28. Section 7-102, R.C.M. 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 ~~(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  
 16 file articles of incorporation to that effect in the manner  
 17 specified in this act, ~~specified, such~~ 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 ~~1-(1) The~~ the name of the association, ~~The name shall~~  
 22 which may not be the same as, ~~not~~ 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

1 part of the name, and ~~as~~ a corporation not organized under  
 2 this act ~~shall be entitled to~~ may not use a name embodying  
 3 ~~said~~ that combination of words~~;~~, provided~~;~~ that the  
 4 associations ~~now~~ existing as of May 1, 1927, may continue  
 5 their present names~~;~~.

6 ~~3-(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 The capital stock shall be divided into shares having a par  
 11 value of ~~one hundred dollars (\$100.00)~~~~;~~.

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

14 ~~5-(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~~,~~ 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 ~~and 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 withdrawing~~ may withdraw his

1 former proxy and ~~of substituting~~ substitute another in its  
 2 stead. Every proxy shall continue in force and be binding  
 3 upon the stockholder until such proxy is revoked or ~~as~~  
 4 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 fraud~~,~~ == false report~~,~~  
 8 == refusal to permit inspection of books. A director,  
 9 officer, agent, or employee of a building and loan  
 10 association is guilty of a felony who:

11 (1) ~~Willfully~~ willfully receives or possesses any of  
 12 its property, otherwise than in payment for a just demand,  
 13 and with intent to defraud~~;~~;

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) ~~Concurs~~ concurrs 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 law~~,~~ or to exhibit~~,~~  
 25 or allow them to be inspected and extracts to be taken from

1 them by the department ~~is guilty of a felony.~~"

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

4 "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 outlined:

12 A-(1) At any regular meeting of the shareholders of  
13 any such association or at any special meeting of the  
14 shareholders of such association, in either case called to  
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,  
18 in person or by proxy, may declare by resolution the  
19 determination to convert ~~said the~~ association into a federal  
20 savings and loan association.

21 B-(2) A copy of the minutes of ~~said 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, ~~in the office of department~~

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 presumptive evidence of the holding and of  
4 the action of such meeting.

5 G-(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 office of~~  
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.M. 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

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) IN THE CASE OF ARTICLES OF INCORPORATION filing  
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.

18 (3) Within ~~ten~~ {10} days after the board of directors  
19 decides to submit the question 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 ~~ten~~ {10} days after the members act on the question of  
24 liquidation, the president shall notify the director in  
25 writing as to whether or not the members approved the

1 proposed liquidation.

2 (4) As soon as the board of directors decides to  
3 submit the question of liquidation to the members, payment  
4 on shares, withdrawal of shares, making any transfer of  
5 shares to loans and interest, making investments of any  
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~~  
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 ~~ten~~  
20 {10} days prior to such meeting.

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

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 voted.

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

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

7 (1) ~~each~~ 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 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 directors-;

18 ~~(2)(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,

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

3 ~~(b)(iii)~~ to borrow money from the members, nonmember  
4 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  
15 proportion to the unpaid balance of such loans and in the  
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~~  
24 ~~show~~ shows that he has applied for the loan through ordinary  
25 banking channels and that the loan has been refused by at

1 least one bank or other financial institution;

2 ~~(d)(v)~~ 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 ~~(e)(vii)~~ to purchase, receive, hold, lease, or  
6 otherwise acquire, and to sell, convey, transfer, lease, or  
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)(viii)~~ 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 (viii) 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 (ix) to acquire, construct, or reconstruct, alter,



1 repair, maintain, operate, sell, convey, transfer, lease, or  
 2 otherwise dispose of industrial plants or business  
 3 establishments;

4 ~~(g)~~ (x) To acquire, subscribe for, own, hold, sell,  
 5 assign, transfer, mortgage, pledge, or otherwise dispose of  
 6 the stock, shares, bonds, debentures, notes, or other  
 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  
 11 ownership, including the right to vote thereon;

12 ~~(h)~~ (xi) To mortgage, pledge, or otherwise encumber  
 13 any property, right, or thing of value, acquired pursuant to  
 14 the powers contained in ~~paragraphs (e), (f), or (g),~~  
 15 subsections (1)(c)(vi) through (1)(c)(x) of this section, 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  
 19 itself of the facilities of the state planning and economic  
 20 development ~~department~~ divisions of the department of  
 21 community 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

1 or of this state or of any part thereof;

2 ~~(j)~~ (xiii) 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 do 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  
 12 share, and the amount of capital stock with which it will  
 13 commence business, and, if there is more than one class of  
 14 stock, a description of the different classes, and the names  
 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 Montana 1947,~~ so far as  
 25 consistent with this act."

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

3 "47-209. License renewal fee ~~failure to pay~~  
4 ~~effect license when in force~~. Every licensee shall,  
5 on or before ~~the first day of~~ December 1, pay to the  
6 department the sum of ~~one hundred twenty five dollars~~  
7 ~~(\$125.00)~~ for each license held as a licensee license fee  
8 for the succeeding calendar year. Failure to pay such  
9 license fee within the time prescribed shall automatically  
10 revoke such license."

11 Section 36. Section 47-211, R.C.M. 1947, is amended to  
12 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 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 contract;  
19 ~~nor any contract of loan~~

20 (b) 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; ~~nor any contract~~  
25 ~~of loan~~

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~~

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

12 (2) Every loan contract shall require payment of  
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:

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

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

1 have been and are living separate and apart when such  
 2 assignment or order is made. ~~Such notice shall be given only~~  
 3 ~~if if~~ ONLY IF the debtor defaults in payment of the whole or  
 4 some part of the loan for which such assignment or transfer  
 5 is security, ~~notice shall~~ SHALL NOTICE be given to the  
 6 debtor's employer of such assignment or transfer. Such  
 7 notice must be served on the employer or a managing agent of  
 8 such employer, must be verified by the oath of the licensee  
 9 or his agent, and must include:

- 10       (a) a correct copy of the assignment;  
 11       (b) a statement of the amount of such loan and the  
 12 amount due and unpaid thereon;  
 13       (c) a 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 "7-226, R.C.M. 1947, is amended to  
 17 read as follows:

18       "47-226. Access to records — witnesses. For 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~~  
 23 may require the attendance of any person and ~~to~~ examine him  
 24 under oath relative to such loans or such business or to the  
 25 subject matter of any examination, investigation, or hearing  
 26 and ~~shall have authority to~~ may require the production of

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

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

-End-

SENATE BILL NO. 6

INTRODUCED BY HAZELBAKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT CORPORATIONS, AND CONSUMER LOAN BUSINESSES."

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

Section 1. Section 5-102, R.C.M. 1947, is amended to read as follows:

"5-102. Institutions to which act is applicable. (1) The word "Bank" "bank" as used in this act title, shall be construed to mean means any corporation which shall have has been incorporated to conduct the business of receiving money on deposit, or transacting a trust or investment business as hereinafter defined, AS DEFINED IN THIS TITLE.

(2) The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business, shall be deemed to be is doing a commercial or savings bank business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, or other receipt, provided, that nothing herein shall apply applies to or include includes money or its equivalent left in escrow, or left with an agent pending investment in real

estate or securities for or on account of his principal.

(3) It shall be is unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within this state, except by means of a corporation duly organized for such purpose.

(4) Banks are divided into the following classes:

(a) Commercial Banks, commercial banks;

(b) Savings Banks, savings banks;

(c) Trust Companies, trust companies;

(d) Investment Companies, investment companies,

provided, further, however, that this act shall not apply to any person, firm or association now doing a private banking business, provided, however, that said private banks hereinabove referred to shall come under all of the provisions of this act which may be fairly applicable thereto; provided further, however, that this act shall not

(5) This title does not apply to any investment company or corporation, heretofore established prior to March 8, 1927, under authority of the law of Montana, not accepting, receiving, and or holding money on deposit."

Section 2. Section 5-202.1, R.C.M. 1947, is amended to read as follows:

"5-202.1. Board to refuse or approve application. The board may refuse or approve an application for a certificate of authorization in accordance with sections 5-607 5-610

There are no changes in S.B. 6, and due to length will not be rerun. Please refer to yellow copy for complete text.

1 through 5-614."

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

4 "5-403. 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 (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. ~~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 regulation, 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 state.~~

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 Deposit Insurance Corporation~~ federal deposit  
4 insurance corporation.

5 (4) The department shall, within ~~ninety~~ (90) days  
6 after taking charge of an insolvent bank, file with the  
7 district court having jurisdiction a complete inventory of  
8 all of the property and assets of the insolvent bank, such  
9 as furniture, fixtures, real estate, mortgages, bonds, and  
10 notes, secured and unsecured. It shall also every ~~six~~ (6)  
11 months, or more often, 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  
14 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.M. 1947, is amended to

SENATE BILL NO. 6

INTRODUCED BY HAZELBAKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO BANKS, BUILDING AND LOAN ASSOCIATIONS, CREDIT UNIONS, DEVELOPMENT CREDIT CORPORATIONS, AND CONSUMER LOAN BUSINESSES."

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(2) The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business, shall be deemed to be is doing a commercial or savings bank business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, or other receipt, provided, that nothing herein shall apply applies to or include includes money or its equivalent left in escrow or left with an agent pending investment in real

estate or securities for or on account of his principal.

(3) It shall be is unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within this state, except by means of a corporation duly organized for such purpose.

(4) Banks are divided into the following classes:

(a) Commercial Banks, commercial banks;

(b) Savings Banks, savings banks;

(c) Trust Companies, trust companies;

(d) Investment Companies, investment companies.

provided, further, however, that this act shall not apply to any person, firm or association now doing a private banking business, provided, however, that said private banks hereinabove referred to shall come under all of the provisions of this act which may be fairly applicable thereto, provided further, however, that this act shall not

(5) This title does not apply to any investment company or corporation heretofore established prior to March 3, 1927, under authority of the law of Montana, not accepting, receiving, and or holding money on deposit."

Section 2. Section 5-202.1, R.C.M. 1947, is amended to read as follows:

"5-202.1. Board to refuse or approve application. The board may refuse or approve an application for a certificate of authorization in accordance with sections 5-607 5-610

1 through 5-614."

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

4 "5-403. 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 (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. ~~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 regulation, 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 state.~~

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 Deposit Insurance Corporation~~ federal deposit  
4 insurance corporation.

5 (4) The department shall, within ~~ninety~~ {90} days  
6 after taking charge of an insolvent bank, file with the  
7 district court having jurisdiction a complete inventory of  
8 all of the property and assets of the insolvent bank, such  
9 as furniture, fixtures, real estate, mortgages, bonds, and  
10 notes, secured and unsecured. It shall also every ~~six~~ {6}  
11 months, or more often, 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  
14 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.M. 1947, is amended to



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, vaults 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 corporation's bank;

15 (c) ~~is 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.M. 1947, is amended to  
3 read as follows:

4 "5-506. Limitation on real estate loans. (1) A  
5 ~~commercial~~ 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-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--{5} 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  
16 real estate offered as security and for a term not longer  
17 than twenty--{20} years if the loan is secured by an  
18 amortized mortgage, deed of trust, or similar instrument,  
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--{20}  
22 years; and

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

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

3 (2) Loans made to finance the construction of  
4 residential or farm buildings and having maturities of not  
5 to exceed ~~six (6)~~ months, 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  
8 loans secured by real estate within the meaning of this  
9 section, but shall be classed as ordinary commercial loans.  
10 A ~~commercial~~ 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  
16 loaned 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 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  
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.

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 ~~Congress~~ 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 ~~Congress~~  
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  
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  
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. ~~"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:

1       ~~"5-508. Business-prohibited-unless-under-department--~~  
 2 ~~use-of-certain-words-prohibited---court-may-enjoin when~~  
 3 ~~advertising as bank prohibited -- trade names restricted.~~

4       (1) A person, firm, company, copartnership partnership, or  
 5 corporation, either domestic or foreign, not subject to the  
 6 supervision of the department, and not required by the  
 7 provisions of this act to report to it, and which has not  
 8 received a certificate to do a banking business from the  
 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; or

18       or that (ii) deposits are received there or payments  
 19 made on check CHECKS; or

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

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

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

6       (3) That person, firm, company, copartnership  
 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  
 10 business in the way or manner of a bank, savings bank,  
 11 trust, or investment company, or in a manner which leads  
 12 the public to believe that its business is that of a bank,  
 13 savings bank, trust, or investment company.

14       (4) A person, firm, company, copartnership  
 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 it, 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 "bank," "banker,"  
 21 "banking," "savings bank," "savings," "trust,"  
 22 "trustee," "trust company," or "investment company."

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

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  
4 an injunction restraining that person, firm, company,  
5 copartnership ~~partnership~~, or corporation during pendency of  
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~~  
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  
16 bank shall ~~may~~ purchase, agree to purchase, or underwrite  
17 any bond issue in excess of ~~ten-per-centum~~ 10% of its  
18 assets, except bonds of the United States, of the state of  
19 Montana, or of the cities, towns, counties, or school  
20 districts of this state."

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

23 "5-519. ~~Obtaining property by fraud--false report--~~  
24 ~~refusal to permit inspection of books~~ Fraud by director,  
25 officer, or employee. A director, officer, agent, or

1 employee of a bank is guilty 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 defraud;

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) Concurrs~~ concurrs in omitting to make any  
8 material entry thereof; or

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 ~~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 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,

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

5 Section 10. Section 5-604, R.C.M. 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  
13 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 ~~(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 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 ~~(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 ~~(7) The board members, except the chairman, shall be~~  
10 paid ~~twenty-five dollars (\$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.~~

16 Section 12. Section 5-610, R.C.M. 1947, is amended to  
17 read as follows:

18 "5-610. Powers and duties 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

1 ~~the~~ duties and powers relate to banking."

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  
5 shall adopt rules necessary for the administration of ~~this~~  
6 ~~act 5-609 through 5-614~~ in accordance with the Montana  
7 Administrative Procedure Act ~~[82-4281 to 82-4225]~~. In  
8 particular, the board shall adopt rules concerning the  
9 authorization of new banks. Such rules shall contain  
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.M. 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

1 shall report to the department within ~~ten--(10)~~ days after  
2 declaring any dividend, showing the amount of the dividend  
3 and the amount of net earnings in excess of the dividend.  
4 The statement report shall be attested as provided for in  
5 ~~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 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 bank  
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 thereof, 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 insolvent,

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

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  
 19 of United States bonds, and to provide for the circulation  
 20 and redemption thereof," approved June 3, 1864, and of  
 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, or have  
 24 executed a written consent authorizing its directors to make  
 25 the certificate required therefor by the laws of the United

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  
 4 such corporation. The cashier of the bank shall publish  
 5 notice thereof for ~~thirty~~ (30) days in the newspaper which  
 6 the directors select, and send a like printed notice by mail  
 7 or otherwise to all nonvoting or dissenting stockholders,  
 8 and notify the department of business regulation that the  
 9 bank has decided to become a corporation under the laws of  
 10 the United States."

11 Section 18. Section 5-1019, R.C.M. 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  
 15 otherwise than in the ordinary routine of the department,  
 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 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

1 ~~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.~~

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 ~~under, into and with the charter of either existing~~  
 8 ~~bank hereinafter 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 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  
 16 stock of such consolidated or merged bank shall ~~may~~ not be  
 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 (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,

1 duty, privilege, and obligation as fiduciary, together with  
 2 title to every species of property, real, personal, and  
 3 mixed, of such consolidating or merging bank and banks  
 4 shall, without the necessity of any instrument of transfer,  
 5 ~~be and become consolidated or~~ merged and continued in and  
 6 held, enjoyed, and/or assumed by the consolidated or merged  
 7 bank, and such consolidated bank shall have and enjoy the  
 8 right equal as to priorities with any other applicant to  
 9 appointment by the courts to the offices of executor,  
 10 administrator, guardian, 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 "banks" as used in this section~~  
 15 ~~shall be held to include commercial banks, savings banks,~~  
 16 ~~trust companies, investment companies and other such~~  
 17 ~~corporations carrying on the business of banking, trust~~  
 18 ~~company or investment company under the laws of this state~~  
 19 ~~or doing business in this state under the national banking~~  
 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



1 bookkeeping and accounting by state banks, including the  
 2 keeping of reasonable credit information, or information in  
 3 connection with assets, ~~and for or~~ information in connection  
 4 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~~ 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 for~~ the  
 12 making of entries in relation to the business of the bank  
 13 and its customers, be bonded.

14 ~~(2)~~ (2) The board of directors shall by order ~~duty~~ entered  
 15 upon the ~~minutes~~ minute books of the board designate the  
 16 officers and employees to be bonded and the amount of bonds  
 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~~  
 19 subject to approval by the department, ~~and the~~ bonds to  
 20 ~~shall~~ be in such form as ~~shall be is~~ provided or approved by  
 21 the department.

22 ~~(4)~~ (4) ~~the~~ the bonds to shall be approved by the  
 23 president of the bank and his action reported to the board  
 24 of directors.

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

1 kept in the custody of the bank subject to inspection by  
 2 examiners from the department; provided, as far as possible,  
 3 they ~~shall~~ may not be placed in the custody of the officer  
 4 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:

7 "5-1039. Giving security for deposit prohibited --  
 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  
 12 ~~shall be is~~ unenforceable, ~~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  
 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  
 20 United States."

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 mean any corporation~~ as defined in section

1 ~~5-102, including commercial banks and trust companies, as~~  
 2 ~~more 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 Saturdays, ~~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,  
 10 required, or permitted to be performed on a Saturday 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 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

1 read as follows:

2 "5-1115. Claims -- partial payments. (1) The  
 3 department need not await the expiration of the time allowed  
 4 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  
 22 liquidation, declare and pay dividends to all creditors of  
 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

1 expiration of the period, or at any other time, has been  
 2 paid more than the prorate pro rata amount due him as  
 3 compared with the amounts then paid other creditors, nothing  
 4 more may be paid that creditor until the payment made other  
 5 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 upon  
 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  
 19 of the bank. No assigned claims may be offset against  
 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  
 4 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 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, ~~and--as~~ As security  
 11 for the loan the liquidating agent may pledge or mortgage  
 12 the assets and properties thereof, for the purpose of paying  
 13 depositors or creditors in part or in full, ~~after applying~~  
 14 ~~to--and--obtaining--the--approval--of--the--department--and--the~~  
 15 ~~district--court--of--the--county--in--which--the--bank--or--trust--or~~  
 16 ~~investment--company--is--located, 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. Transfer of fiduciary relationships between  
 21 affiliated banks. (1) Any bank which has received approval,  
 22 pursuant to section 6 [5-1506] to maintain a trust office in  
 23 the same building with the main office of any affiliated  
 24 bank may file its verified application in the district court  
 25 of the county in which its main office is located requesting

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  
 11 fiduciary account designated therein, the name and address  
 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 ~~(11)(a) to (11)(e)~~  
 15 ~~inclusive~~ of section 5-1507.

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.

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

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

15 (5) On such date of hearing, upon finding that due  
 16 notice has been given as required by this act and upon  
 17 finding that the applicant bank has received the requisite  
 18 approval from the department of ~~business regulation~~ or the  
 19 comptroller of the currency if the applicant bank is a  
 20 national banking association, the district court shall enter  
 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

1 pursuant to this section. Upon entry of such order, the  
 2 applicant bank shall, without further act, be substituted in  
 3 every such fiduciary capacity. Such substitution may be  
 4 made a matter of record in any county of this state by  
 5 filing a certified copy of the order of substitution in the  
 6 office of the clerk of any district court in this state or  
 7 by filing a certified copy of such order in the office of  
 8 the clerk and recorder of any county in this state to be by  
 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.

12 (6) Each designation<sub>1</sub> in a will or other instrument  
 13 heretofore or hereafter executed<sub>1</sub> 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  
 18 section. Any grant in any such will or other such  
 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.

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. Upon

1 substitution pursuant to this section, the affiliated bank  
 2 for which substitution has been made shall deliver to such  
 3 applicant bank all assets held by such affiliated bank as  
 4 fiduciary (except assets held for accounts with respect of  
 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  
 8 necessity of any instrument or of transfer or conveyance."

9 Section 28. Section 7-102, R.C.M. 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 ~~(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  
 16 file articles of incorporation to that effect in the manner  
 17 ~~specified~~ in this act, ~~specified~~ such 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 ~~1. The name of the association. The name shall~~  
 22 ~~which may~~ not be the same as ~~not~~ 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

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 words~~;~~ provided~~;~~ that the  
 4 associations now existing as of May 1, 1927, may continue  
 5 their present names~~;~~

6 ~~2.(2)~~ The ~~the~~ principal office~~y~~ 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 ~~the~~ capital stock shall be divided into shares having a par  
 11 value of ~~one hundred dollars (\$100.00)~~~~;~~

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

14 ~~5.(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~~y~~ 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 ~~and 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 withdrawing~~ may withdraw his

1 former proxy and ~~of substituting~~ substitute another in its  
 2 stead. Every proxy shall continue in force and be binding  
 3 upon the stockholder until such proxy is revoked or ~~an~~  
 4 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 fraud~~y~~ ~~=~~ false report~~y~~  
 8 ~~=~~ refusal to permit inspection of books. A director,  
 9 officer, agent, or employee of a building and loan  
 10 association is guilty of a felony who:

11 (1) ~~Willfully~~ willfully receives or possesses any of  
 12 its property, otherwise than in payment for a just demand,  
 13 and with intent to defraud~~;~~

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) Concurs~~ 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~~s~~ or statement of the  
 20 association's affairs or pecuniary condition~~y~~ 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 law~~y~~ or to exhibit~~y~~  
 25 or allow them to be inspected and extracts to be taken from

1 them by the department ~~is guilty of a felony.~~"

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

4 \*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 outlined:

12 A(1) At any regular meeting of the shareholders of  
13 any such association or at any special meeting of the  
14 shareholders of such association, in either case called to  
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,  
18 in person or by proxy, may declare by resolution the  
19 determination to convert said ~~the~~ association into a federal  
20 savings and loan association.

21 B(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 ~~in the office or department~~

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 presumptive evidence of the holding and of  
4 the action of such meeting.

5 C(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 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  
19 shall thereafter be a federal savings and loan association."

20 Section 32. Section 14-605, R.C.M. 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

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 directors, and for which  
5 no fee shall ~~may~~ be charged; ~~for such approval, and~~

6 (b) IN THE CASE OF ARTICLES OF INCORPORATION, filing  
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.

18 (3) Within ~~ten~~~~10~~ days after the board of directors  
19 decides to submit the question 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 ~~ten~~~~10~~ days after the members act on the question of  
24 liquidation, the president shall notify the director in  
25 writing as to whether or not the members approved the

1 proposed liquidation.

2 (4) As soon as the board of directors decides to  
3 submit the question of liquidation to the members, payment  
4 on shares, withdrawal of shares, making any transfer of  
5 shares to loans and interest, making investments of any  
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~~  
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 ~~ten~~  
20 ~~10~~ days prior to such meeting.

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



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 voted.

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

1 state, who may desire to create a development credit  
2 corporation under the provisions of this act, for the  
3 purpose of promoting, developing, and advancing the  
4 prosperity and economic welfare of the state and, to that  
5 end, to exercise the powers and privileges hereinafter  
6 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 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 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,

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

3 ~~(b)(iii)~~ to ~~to~~ borrow money from the members, nonmember  
4 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  
15 proportion to the unpaid balance of such loans and in the  
16 same manner;

17 ~~(c)(iv)~~ to ~~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~~  
24 ~~show shows~~ that he has applied for the loan through ordinary  
25 banking channels and that the loan has been refused by at

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 ~~(e)(vi)~~ to ~~to~~ purchase, receive, hold, lease, or  
6 otherwise acquire, and to sell, convey, transfer, lease, or  
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 ~~(g)(viii)~~ 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 ~~(h)(ix)~~ to acquire, construct, or reconstruct, alter,

1 repair, maintain, operate, sell, convey, transfer, lease, or  
2 otherwise dispose of industrial plants or business  
3 establishments;

4 ~~(g)(x)~~ To to acquire, subscribe for, own, hold, sell,  
5 assign, transfer, mortgage, pledge, or otherwise dispose of  
6 the stock, shares, bonds, debentures, notes, or other  
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  
11 ownership, including the right to vote thereon;

12 ~~(h)(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 ~~(e), (f), or (g)~~  
15 subsections (1)(c)(vi) through (1)(c)(x) of this section, 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  
19 itself of the facilities of the state planning and economic  
20 development department divisions of the department of  
21 community 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

1 or of this state or of any part thereof;

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;

6 ~~(k)(xiv)~~ To to do 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  
12 share, and the amount of capital stock with which it will  
13 commence business, and, if there is more than one class of  
14 stock, a description of the different classes, and the names  
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 Montana 1947,~~ so far as  
25 consistent with this act."

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

3 "47-209. License renewal fee ~~---failure-to-pay---~~  
4 ~~effect---license---when-in-force.~~ Every licensee shall,  
5 on or before ~~the-first-day-of~~ December 1, pay to the  
6 department the sum of ~~one-hundred-twenty-five-dollars~~  
7 ~~{125.00}~~ for each license held as a ~~licensee license~~ fee  
8 for the succeeding calendar year. Failure to pay such  
9 license fee within the time prescribed shall automatically  
10 revoke such license."

11 Section 36. Section 47-211, R.C.M. 1947, is amended to  
12 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 contract;  
19 ~~nor-any-contract-of-loan~~

20 (b) 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;  
25 ~~nor-any-contract~~  
~~of-loan~~

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;  
6 ~~nor-any-contract~~  
7 ~~of-loan or~~

8 (d) for more than ~~two-thousand-dollars-{2,000}~~ to  
9 and including ~~two-thousand-five-hundred-dollars--{2,500}~~,  
10 exclusive of charges, under which the borrower agrees to  
11 make any scheduled repayment of principal more than  
12 ~~thirty-seven-{37}~~ calendar months from the date of making.

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

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

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

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

1 have been and are living separate and apart when such  
 2 assignment or order is made. ~~Such notice shall be given only~~  
 3 ~~if if ONLY IF~~ the debtor defaults in payment of the whole or  
 4 some part of the loan for which such assignment or transfer  
 5 is security. ~~notice shall~~ SHALL NOTICE be given to the  
 6 debtor's employer of such assignment or transfer. Such  
 7 notice must be served on the employer or a managing agent of  
 8 such employer, must be verified by the oath of the licensee  
 9 or his agent, and must include:

- 10       (a) \* a correct copy of the assignment;
- 11       (b) \* a statement of the amount of such loan and the
- 12       amount due and unpaid thereon;
- 13       (c) \* a 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  
 17       read as follows:

18       "47-226. Access to records -- witnesses. For 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~~  
 23       may require the attendance of any person and to examine him  
 24       under oath relative to such loans or such business or to the  
 25       subject matter of any examination, investigation, or hearing

1 and ~~shall have authority to~~ may require the production of  
2 books, accounts, papers, and records. In the event of  
3 disobedience to any subpoena or other process issued by the  
4 department or failure to produce any books, accounts,  
5 papers, and records, the department may invoke the aid of  
6 any district court of this state in requiring the evidence  
7 and testimony of witnesses and the production of books,  
8 accounts, papers, and records."

9 Section 39. Repealer. Section 5-1125, R.C.M. 1947, is  
10 repealed.

-End-