

HOUSE BILL 78

IN THE HOUSE

January 4, 1979

Introduced and referred to  
Committee on Business and  
Industry.

1                    HOUSE BILL NO. 78  
 2 INTRODUCED BY MENAHAN

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
 5 INCORPORATION, MANAGEMENT, OPERATION, AND REGULATION OF  
 6 STOCK SAVINGS AND LOAN ASSOCIATIONS; PRESCRIBING THE POWERS,  
 7 DUTIES, AND LIMITATIONS OF SUCH ASSOCIATIONS; PROVIDING FOR  
 8 THE CONTINUATION OF EXISTING MUTUAL SAVINGS AND LOAN  
 9 ASSOCIATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12        Section 1. Definitions. As used in [this act], the  
 13 following definitions apply:

14        (1) "Association" means a savings and loan association  
 15 or a building and loan association subject to the provisions  
 16 of [this act].

17        (2) "Combination home and business structure" means a  
 18 building or buildings, including residences for not more  
 19 than four families, which are used in part for business  
 20 purposes, if the residential use of such building is  
 21 substantial and permanent, not merely transitory. The  
 22 business use may predominate.

23        (3) "Deposit" means that part of the savings liability  
 24 of an association which is credited to the account of the  
 25 holder thereof.

1        (4) "Department" means the department of business  
 2 regulation.

3        (5) "Direct-reduction loan" means a loan repayable in  
 4 consecutive monthly installments, equal or unequal,  
 5 beginning not later than 60 days after the date of the  
 6 advance of the loan, sufficient to retire the debt,  
 7 interest, and principal within 30 years; but the initial  
 8 loan contract shall not provide for any subsequent monthly  
 9 installment of any amount more than 50% larger than any  
 10 previous monthly installment.

11        (6) "Dividend" means that part of the net earnings of  
 12 an association which is declared payable by the board of  
 13 directors to the holders of permanent capital stock.

14        (7) "Foreign", used in connection with an association,  
 15 company, or corporation, means an association, company, or  
 16 corporation organized or incorporated under the laws of some  
 17 government other than that of Montana.

18        (3) "Gross income" means the sum for an accounting  
 19 period of the following:

- 20            (a) operating income;
- 21            (b) real estate income;
- 22            (c) all profits actually received during such  
 23 accounting period from the sale of securities, real estate,  
 24 or other property;
- 25            (d) other nonrecurring income.

1 (9) "Home" means a dwelling or dwellings for not more  
2 than four families, the principal use of which is for  
3 residential purposes, including a home on a farm.

4 (10) "Home loan" means a real estate loan the security  
5 for which is home property.

6 (11) "Home property" means real estate on which there  
7 is located or will be located, pursuant to a home loan, a  
8 home or combination home and business structure.

9 (12) "Impaired condition" means a condition in which  
10 the assets of an association do not have an aggregate value  
11 equal to the aggregate amount of liabilities of the  
12 association to its creditors, including its savings  
13 depositors and all other persons.

14 (13) "Improved real estate" means real estate on which  
15 there is a structure, or building lots or sites which, by  
16 reason of installations and improvements that have been  
17 completed, are building lots or sites ready for building  
18 construction thereon.

19 (14) "Insured association" means an association the  
20 savings accounts of which are insured wholly or in part by  
21 the federal savings and loan insurance corporation.

22 (15) "Interest" means that part of the net earnings of  
23 an association which is declared payable from time to time  
24 by the board of directors on savings accounts or investment  
25 certificates and which represents the primary cost of

1 securing and maintaining savings funds for an association.

2 (16) (a) "Investment certificate" means any  
3 certificate or contract, either paid up or purchasable on an  
4 installment basis, which is issued for the purpose of  
5 providing a means of investment or savings.

6 (b) An accumulative investment certificate is an  
7 investment certificate not full-paid and without an  
8 expressed date of maturity, upon which the holder has the  
9 option of making payments at such times and in such amounts  
10 as the holder elects and as the association permits.

11 (c) A full-paid investment certificate is an  
12 investment certificate, with or without an expressed date of  
13 maturity, for which the association has received the  
14 principal amount at or prior to the time of the issuance of  
15 the certificate.

16 (d) A minimum-term investment certificate is an  
17 investment certificate for which the association has  
18 received a single payment equal to the principal amount  
19 thereof and which has a date expressed therein before which  
20 notice of intention to withdraw cannot be given or which  
21 requires written notice from the holder to the association  
22 for a period specified therein before the expiration of  
23 which period notice of intention to withdraw cannot be  
24 given. On and after such date or upon and after the  
25 expiration of the specified period following written notice,

1 each certificate ceases to be a minimum-term investment  
 2 certificate and becomes a full-paid investment certificate,  
 3 subject to the same withdrawal rights and restrictions as a  
 4 full-paid investment certificate.

5 (17) "Merger" means that consolidation of corporate  
 6 structures which results in the uniting of substantially all  
 7 the assets and liabilities of one state-chartered  
 8 association with those of another such association or with  
 9 those of a federal association.

10 (18) "Net earnings" means gross income for an  
 11 accounting period less the aggregate of the following:

12 (a) operating expenses;

13 (b) real estate expenses;

14 (c) all losses actually sustained during the  
 15 accounting period from the sale of securities, real estate,  
 16 or other property or such portion of the losses as shall not  
 17 have been charged to reserves, pursuant to the provisions of  
 18 [this act];

19 (d) all interest paid or due but unpaid on borrowed  
 20 money;

21 (e) other nonrecurring charges.

22 (19) (a) "Operating expenses" means all expenses  
 23 actually paid or due but unpaid by an association during an  
 24 accounting period, excluding the following:

25 (i) real estate expenses;

1 (ii) interest on borrowed money;

2 (iii) other nonrecurring charges.

3 (b) That portion of prepaid expenses which is not  
 4 apportionable to the period may be excluded from operating  
 5 expenses, in which event operating expenses for future  
 6 periods shall include that portion of the prepaid expenses  
 7 apportionable thereto.

8 (20) "Operating income" means all income actually  
 9 received by an association during an accounting period,  
 10 excluding foreclosed real estate income.

11 (21) "Other real estate loan" means a real estate loan  
 12 the security for which is improved real estate other than  
 13 home property.

14 (22) "Real estate expenses" means all expenses actually  
 15 paid or due but unpaid in connection with the ownership,  
 16 maintenance, and sale of real estate, other than office  
 17 buildings or buildings and real estate held for investment,  
 18 by an association during an accounting period, excluding  
 19 capital expenditures and losses on the sale of real estate.

20 (23) "Real estate income" means all income actually  
 21 received by an association during an accounting period from  
 22 real estate owned, other than from office buildings or  
 23 buildings and real estate held for investment, excluding  
 24 profit from sales of real estate.

25 (24) "Real estate loan" means any loan or other

1 obligation secured by real estate, whether in fee or in a  
2 leasehold extending or renewable automatically for a period  
3 of at least 90 years, or any transaction out of which a lien  
4 or claim is created against real estate.

5 (25) "Regular lending area" means the state of Montana  
6 and any additional area located within a radius of 100 miles  
7 from the home office or any full-service branch of an  
8 association, whether within or without the state.

9 (26) "Residential property" means a building or  
10 buildings the residential use of which is substantial and  
11 permanent and not merely transitory.

12 (27) "Savings account" means that part of the savings  
13 liability of the association which is credited to the  
14 account of the depositor thereof.

15 (28) "Savings liability" means the aggregate amount of  
16 savings accounts, including interest credited to such  
17 accounts, less withdrawals.

18 (29) "Service office" means any office or other place  
19 of business in this state operated by one or more savings  
20 and loan associations, other than the principal office or a  
21 branch of an association, where activities are confined to  
22 processing and storing data and records, accounting,  
23 printing, storing of supplies, and such other activities as  
24 the department shall approve which involve no personal  
25 contact with the public. At a service office, payment on

1 account of savings or loans may be processed but the  
2 association shall issue all payments which are initially  
3 received at a service office, rather than at the principal  
4 office or branch of the association, made by mail only and  
5 directed to a post-office box and not to the address or  
6 location of the service office. The department may require  
7 that an association's name not be displayed at or near a  
8 service office.

9 (30) "Short-term loan" means a direct-reduction loan  
10 for a term of 3 years or less.

11 (31) "Unimproved real property" means any real property  
12 which has not been improved by installations or improvements  
13 for building lots or sites and on which no structures have  
14 been built or placed.

15 (32) "Withdrawal value" means the amount credited to a  
16 savings account less lawful deductions therefrom, as shown  
17 by the records of the association.

18 Section 2. Administration by department. The  
19 department shall administer the provisions of [this act]. It  
20 shall make the decisions and determinations, and enter the  
21 consents and orders necessary or reasonably appropriate to  
22 accomplish the purposes of [this act]. Nothing in [this  
23 act] shall be construed to prevent an association or person  
24 affected by any order, ruling, proceeding, or action of the  
25 department from testing the validity of the action in any

1 court of competent jurisdiction through injunction, appeal,  
2 error, or other proper process or proceeding, mandatory or  
3 otherwise.

4 Section 3. Prohibition against interest in  
5 associations, indebtedness -- exception -- termination of  
6 prohibited interest or relation. (1) Except as provided in  
7 subsection (2), the director of the department and any  
8 deputy, attorney, examiner, accountant, or appraiser  
9 appointed or employed by the director may not:

10 (a) be interested, directly or indirectly, in any  
11 association;

12 (b) be or become indebted, directly or indirectly, as  
13 borrower, endorser, surety, or grantor or sell or otherwise  
14 dispose of any loan or investment to any association under  
15 the department's supervision or subject to the department's  
16 examination.

17 (2) The director and any deputy, attorney, examiner,  
18 accountant, or appraiser appointed or employed by him may  
19 establish and maintain savings deposits with associations to  
20 the maximum insured amount, receive interest on their  
21 deposits, and borrow money secured by a pledge of their  
22 deposits.

23 (3) If the director or any deputy, attorney, examiner,  
24 accountant, or appraiser appointed or employed by him has an  
25 interest or relationship prohibited by this section at the

1 time of his appointment or employment, he shall terminate it  
2 within 120 days after the date of his appointment or  
3 employment.

4 Section 4. Department's duty to maintain and provide  
5 records and reports. The department shall:

6 (1) keep in its office:

7 (a) for no less than 5 years, every report made by an  
8 association;

9 (b) in a permanent file, the original application of  
10 every association;

11 (c) other administrative documents in the manner  
12 provided by law or by appropriate regulations.

13 (2) provide a complete stenographic record of every  
14 hearing and proceeding conducted by it and maintain, for no  
15 less than 5 years, a transcript of the hearing or  
16 proceeding, together with any regulation, order, decision,  
17 determination, or consent entered in connection with the  
18 hearing or proceeding.

19 Section 5. Information confidential -- exceptions. All  
20 information and data required by the department to be  
21 furnished to it under [this act] or which may be otherwise  
22 obtained by it, including information and data relative to  
23 earnings or revenue of an existing association or an  
24 applicant for a permit or license, shall be confidential and  
25 shall not be revealed in whole or in part, except:

1 (1) in the course of the necessary administration of  
2 [this act];

3 (2) upon the lawful order of a court of competent  
4 jurisdiction.

5 Section 6. Biennial report of department -- content --  
6 distribution. (1) The department shall, before September 1  
7 of each even-numbered year for the biennium ending June 30  
8 of such year, report to the governor. The report shall:

9 (a) show the condition of all associations reporting  
10 to or examined by the department;

11 (b) be accompanied by a detailed statement of all  
12 money received by the department since its last report and  
13 the disposition of such money.

14 (2) Copies of the reports shall be furnished to each  
15 association licensed under the provisions of [this act].

16 Section 7. Rules. The department may establish such  
17 rules as may be reasonable or necessary to carry out the  
18 purposes of [this act], in accordance with the provisions of  
19 the Montana Administrative Procedure Act.

20 Section 8. Appeals to director -- hearing -- review by  
21 district court. (1) Any association aggrieved by any action  
22 of the department or by its failure to act under the  
23 provisions of [this act] may appeal to the director. The  
24 association shall file a written statement of objections  
25 within 30 days after the action of the department or after

1 its failure to act.

2 (2) Within 10 days after the filing of such statement  
3 of objections, the director shall fix a date for a hearing  
4 on the objections. Written notice shall be given as provided  
5 for contested cases under the Montana Administrative  
6 Procedure Act. The date of the hearing shall be not earlier  
7 than 15 days or later than 30 days after the date of the  
8 notice unless the director determines that an earlier  
9 hearing is necessary or advisable. Upon written agreement  
10 between the parties, the director may extend the time for  
11 the hearing to the time agreed upon by the parties.

12 (3) Upon the conclusion of the hearing, the director  
13 shall determine the facts. The director shall, in writing,  
14 either approve, disapprove, or modify the action of the  
15 department or approve or disapprove of its failure to act.

16 (4) The director's written findings and decision are  
17 subject to review by the district court as provided in Title  
18 2, chapter 4, part 7.

19 Section 9. Injunctions -- restraining orders. The  
20 department may cause appropriate legal action to be taken in  
21 the district court of any county to secure an injunction or  
22 order restraining a violation of any provision of [this  
23 act].

24 Section 10. Notices by department -- requirements --  
25 mailing. All notices shall be in writing. All notices issued

1 or required to be issued by the department shall be sent by  
2 registered or certified mail and shall become effective upon  
3 deposit of the notice in the mail.

4 Section 11. Amendment or alteration of licenses by  
5 department -- appeals. The department may, for reasonable  
6 cause and upon 15 days' notice, amend or alter any license  
7 issued by it, but the association may appeal the order of  
8 the department in the manner provided in [this act].

9 Section 12. Deposit of money collected --  
10 expenditures. (1) All fees, charges for expenses,  
11 assessments, and other money collected under the provisions  
12 of [this act] from foreign and domestic associations,  
13 companies, and corporations governed by [this act] shall be  
14 paid into the general fund in the state treasury.

15 (2) The compensation provided for by [this act] and  
16 all expenses incurred under [this act] shall be paid from  
17 the general fund in the state treasury by direct legislative  
18 appropriation.

19 Section 13. Annual report -- form and content -- fee  
20 -- penalty. (1) Each foreign or domestic association,  
21 company, or corporation doing business in this state shall  
22 file annually with the department, on or before March 1, a  
23 sworn statement in two sections.

24 (2) (a) One section of the annual report shall  
25 contain, in such form and detail as the department may

1 prescribe, the following:

2 (i) the amount of authorized capital by classes and  
3 the par value of each class of stock;

4 (ii) a statement of its assets and liabilities at the  
5 close of its last fiscal year;

6 (iii) salaries paid to each of its officers and to its  
7 manager, if any, during its last fiscal year;

8 (iv) the total of its liability to savings depositors  
9 at the close of its last fiscal year;

10 (v) any other facts which the department may require.

11 (b) This section of the annual report shall be  
12 furnished in duplicate, with one copy, duly certified, to be  
13 returned to the reporting organization, which, with the  
14 exception of subsection (2)(a)(iii), shall be published at  
15 least two times in some newspaper having a general  
16 circulation in the county in which the association maintains  
17 an office. Publication shall be completed on or before May  
18 1, and proof thereof shall be filed in the office of the  
19 department.

20 (3) One section of the annual report shall contain  
21 such other information as the department may require. This  
22 section need not be published and shall be treated by the  
23 department as confidential.

24 (4) Every association shall be required to pay to the  
25 department for supervision and examination:



(a) an annual fee of \$200 for each home office and an annual assessment on its total assets, computed per \$1,000 as of December 31 of the preceding year, at the rate of 15 cents per \$1,000 of total assets;

(b) an annual fee of \$100 for each branch office.

(5) The department shall determine from the annual statement the amount due from each association and shall submit a bill to the association for the amount by March 15. A penalty of 10% of the fee payable shall be charged for each month or part thereof that the fees are not paid after April 15 of each year.

(6) All sums received by the department shall be delivered to the state treasurer and paid into the state general fund.

Section 14. Department authorized to require further information. Each foreign or domestic association, company, or corporation shall supply to the department at any time, upon demand, any information which it may require as to the association's condition, affairs, or methods.

Section 15. Hearings, investigations, and examinations by department. (1) The department is authorized to conduct or cause to be conducted such hearings, investigations, or examinations of the books and records, wherever they may be, relating to the affairs of such organizations as it considers expedient and in aid of the proper administration

of the provisions of [this act].

(2) In connection with the conduct of any hearings, investigations, or examinations, the department or other person designated by it to conduct the same shall have power to:

(a) compel the attendance of any person by subpoena;

(b) administer oaths;

(c) examine any person under oath concerning the business and conduct of affairs of any association subject to the provisions of [this act] and, pursuant thereto, to require the production of any books, papers, records, money, and securities relevant to the inquiry. Any willful false swearing is perjury and shall be punishable as such.

Section 16. Procedure when person refuses to attend, testify, or produce books or papers required by subpoena. (1) In case of the refusal of any person to attend or testify or produce any books or papers required by the subpoena directed to be served under the provision of [section 15], the department may report to the district court in and for the county in which the examination, hearing, or investigation is pending by petition, asking an order of the court compelling the person to attend and testify or produce the books or papers before the department and setting forth that:

(a) due notice has been given of the time and place of

1 attendance of the person or the production of the books or  
2 papers;

3 (b) the person has been subpoenaed in the manner  
4 prescribed in [this act]; and

5 (c) the person has failed and refused to attend or  
6 produce the books or papers required by subpoena before the  
7 department in the examination, hearing, or investigation  
8 named in the subpoena or has refused to answer questions in  
9 the course of such examination, hearing, or investigation.

10 (2) The court, upon petition of the department, shall  
11 enter an order directing the person to appear before the  
12 court at a time and place to be fixed by the court in the  
13 order, the time to be not more than 10 days from the date of  
14 the order, and show cause why he has not attended or  
15 testified or produced the books or papers before the  
16 department. A certified copy of the order shall be served  
17 upon the person. If it appears to the court that the  
18 subpoena was regularly issued by the department, the court  
19 shall enter an order that the person appear before the  
20 department at the time and place fixed in the order and  
21 testify or produce the required books or papers; and upon  
22 failure to obey the order the person shall be dealt with as  
23 for contempt of court.

24 Section 17. Examination of holding companies. (1) The  
25 department may, at the time of examining a savings and loan

1 association, inspect the books, ledgers, and minutes of any  
2 corporation which is registered or required to be registered  
3 under section 408 of the National Housing Act as a holding  
4 company whenever, in its discretion, it considers it  
5 advisable to ascertain facts which may relate to  
6 transactions between the holding company and the affiliated  
7 association. The provisions of [section 15] apply to the  
8 examination of the corporation.

9 (2) Upon making findings to that end, the department  
10 may order the discontinuance of borrowing, lending, selling,  
11 or buying of assets, extending credit, or guaranteeing  
12 obligations of the holding company which has been undertaken  
13 without the written approval of the department.

14 (3) No unreasonable supervisory fees may be imposed  
15 upon any association by a holding company which controls the  
16 association.

17 Section 18. Examinations outside state -- fees and  
18 travel expenses. (1) Whenever in connection with such  
19 examinations it is necessary or expedient that an agent of  
20 the department leave this state, there shall be assessed  
21 against the organization under examination a fee of \$25 per  
22 day for each agent while outside the state in such  
23 connection, together with all actual and necessary expenses.

24 (2) The fee charged shall be remitted to the  
25 department, which shall deliver it to the state treasurer,

1 and the fee shall be paid into the general fund in the state  
2 treasury.

3 Section 19. Other examinations acceptable in lieu of  
4 examination by department. In lieu of making any  
5 examination, the department may accept any examination of  
6 any association made by the federal home loan bank board,  
7 any federal home loan bank, or the federal savings and loan  
8 insurance corporation or may examine any such institution in  
9 conjunction with the federal home loan bank board, a federal  
10 home loan bank, or the federal savings and loan insurance  
11 corporation.

12 Section 20. Authority of department to make  
13 information from examinations available to other public  
14 authorities or officers. The department may furnish to the  
15 federal home loan bank board or to any federal home loan  
16 bank or to examiners duly appointed by the federal home loan  
17 bank board or any federal home loan bank or to any federal  
18 loan agency copies of any instruments concerning, and may  
19 disclose any information with reference to, the conditions  
20 or affairs of any foreign or domestic association, company,  
21 or corporation.

22 Section 21. Audits of associations' books and  
23 accounts. (1) Each association shall, at least once each  
24 year, cause its books and accounts to be audited at its own  
25 expense by a certified public accountant or firm of

1 accountants selected by the association and approved by the  
2 department.

3 (2) The department may prescribe the scope of the  
4 audit.

5 (3) A certified copy of the audit, including the  
6 management and internal control letters relating to the  
7 audit, shall be furnished to the department.

8 Section 22. Suspension or revocation of association  
9 charter. The department may after notice and hearing suspend  
10 or revoke the charter of any association for repeated  
11 failure to abide by the provisions of [this act] or the  
12 rules adopted thereunder.

13 Section 23. Incorporation of domestic associations —  
14 procedure — limitations on advertising. (1) Savings and  
15 loan associations, except banks, trust companies, licensed  
16 brokers, consumer loan businesses, thrift companies, and  
17 credit unions, whose principal and primary business is to  
18 borrow, loan, and invest money, shall be incorporated under  
19 the provisions of [this act]. For that purpose, all of the  
20 provisions of chapter 1, Title 35, which are not in conflict  
21 with [this act] are hereby adopted as parts of [this act]  
22 and all the rights, privileges, and powers and all the  
23 duties and obligations of such domestic corporations and of  
24 the officers and stockholders thereof shall be as provided  
25 in chapter 1, Title 35, except as otherwise provided in

1 [this act].

2 (2) A person, firm, partnership, association, or  
3 corporation, except a savings and loan association  
4 incorporated under [this act], shall not conduct or carry on  
5 the business of soliciting or advertising for savings  
6 deposits and loaning of savings. This subsection does not  
7 apply to banks, trust companies, licensed brokers, thrift  
8 companies, or credit unions.

9 Section 24. Department to approve articles of  
10 association, incorporation, and amendment -- applications  
11 for permission to organize -- licenses to operate --  
12 conditions. (1) The secretary of state shall not issue any  
13 certificate to any association or company authorizing it to  
14 do business until the articles of association, agreement, or  
15 incorporation are approved by the department.

16 (2) No amendment to the articles of any such  
17 organization may be filed by the secretary of state without  
18 written approval of the department.

19 (3) No association may sell, offer for sale, negotiate  
20 for the sale of, take subscriptions for, or issue any of its  
21 permanent stock until it has applied for and secured from  
22 the department approval of an application for permission to  
23 organize as provided for in this section.

24 (4) (a) Persons who desire to organize an association  
25 under [this act] shall first execute in triplicate an

1 application, in the form prescribed by the department, for  
2 permission to organize an association before taking any  
3 other action in connection therewith.

4 (b) Upon execution of an application for permission to  
5 organize by seven responsible citizens, referred to in this  
6 section as "applicants", the original and two copies shall  
7 be submitted to the department. The applicants shall submit  
8 with their application the names and addresses of the  
9 applicants, the location of the proposed office, a pro forma  
10 itemized account of the financial condition of the proposed  
11 association and of the applicants, the amount and character  
12 of the proposed stock, statements, exhibits, maps, and such  
13 additional information as the department may require,  
14 together with an affidavit that the representations made  
15 thereby are consistent with the facts to the best of the  
16 applicants' information and belief. This data shall be  
17 sufficiently detailed and comprehensive to enable the  
18 department to pass upon the application as to:

19 (i) the character and responsibility of the  
20 applicants;

21 (ii) the need for such association in the community to  
22 be served;

23 (iii) the reasonable probability of its usefulness and  
24 success; and

25 (iv) whether or not the association can be established

1 without undue injury to any properly conducted existing  
2 savings and loan institutions.

3 (c) If the department approves the application, it  
4 shall within 30 days notify all associations within 100  
5 miles of the community where the applicant intends to  
6 establish an association. Any association so notified may  
7 within 20 days protest in writing the granting of the  
8 application. Within 30 days after receipt by the department  
9 of the written protest, the department shall fix a date for  
10 a hearing upon the protest, and the hearing shall be held  
11 not less than 30 days or more than 60 days from the date of  
12 receipt of written notice by registered or certified mail by  
13 the parties.

14 (d) The department shall approve or deny the  
15 application within 90 days from the date of the conclusion  
16 of the hearing and shall give all parties written notice of  
17 its decision on or before such date.

18 (e) If the department approves the application, it  
19 shall establish as conditions to be met prior to the  
20 issuance of a charter requirements as to:

21 (1) capital funds. To qualify for authority to do  
22 business as a savings and loan association, the  
23 incorporators shall possess and thereafter maintain  
24 unimpaired paid-in capital stock in an amount not less than  
25 required by the federal home loan bank for issuance of

1 insurance of accounts through the federal savings and loan  
2 insurance corporation.

3 (ii) the minimum amount of investment certificates to  
4 be paid into the association's savings accounts upon  
5 issuance of a charter to it; and

6 (iii) such other requirements as it considers necessary  
7 or desirable.

8 (f) Approval of an application for permission to  
9 organize an association shall not in any manner obligate the  
10 department to issue a charter, except that when all  
11 requirements of [this act] and of the department have been  
12 fulfilled, it shall issue a charter.

13 (g) The charter shall expire 180 days from issuance  
14 unless, within that time, the association has obtained  
15 insurance of accounts from the federal savings and loan  
16 insurance corporation. The department may, for good cause,  
17 extend the time of the conditional expiration of the charter  
18 for additional periods not exceeding 30 days in the  
19 aggregate.

20 (5) An association shall not commence business until  
21 it has applied for and secured from the department a license  
22 authorizing it to operate as a savings and loan association  
23 under [this act] and until it has applied for and secured  
24 insurance of accounts under the rules and regulations of the  
25 federal savings and loan insurance corporation.

1 (6) The department may extend the time for any hearing  
2 provided for in this section to the time agreed upon by the  
3 parties.

4 (7) Every application for permission to organize as  
5 provided for in this section shall be accompanied by a fee  
6 of \$500, which shall be paid into the state general fund,  
7 and no part of it shall be refunded.

8 (8) The department may impose conditions requiring the  
9 impoundment of proceeds from the sale of any stock, limiting  
10 the expense in connection with the sale of stock, and such  
11 other conditions as are reasonable and necessary or  
12 advisable to insure the disposition of the proceeds from the  
13 sale of the stock in the manner and for the purposes  
14 provided in the permission to organize.

15 (9) Every permission to organize issued by the  
16 department shall recite in bold type that the issuance  
17 thereof is permissive only and does not constitute a  
18 recommendation or endorsement of the organization or of the  
19 stock permitted to be issued.

20 (10) Any corporation making application under this  
21 section or authorized to organize or authorized to establish  
22 a savings and loan association shall provide in its articles  
23 of incorporation for a minimum par value of its permanent  
24 capital stock of at least \$1.

25 (11) The removal of the home office or of any branch

1 office of an association to any other location from its  
2 existing location requires prior approval of the department.  
3 An application seeking such approval must be delivered to  
4 the department, together with a fee to cover expenses of the  
5 investigation required for the approval, which shall be in  
6 an amount not less than \$100 or more than \$250, to be  
7 determined by the department.

8 (12) An association shall not pay any commissions or  
9 other compensation for the subscription to or sale of its  
10 stock.

11 Section 25. Change of name of domestic savings and  
12 loan association -- procedure. Any domestic association  
13 which has the words "savings and loan" in its name may, by  
14 filing with the department written notice thereof authorized  
15 by its board of directors and by complying otherwise with  
16 its articles of incorporation, remove the words "and loan"  
17 from its name.

18 Section 26. Branch offices -- definition --  
19 establishment and regulation -- revocation of approval --  
20 appeals. (1) A branch office is a legally established place  
21 of business of a domestic association, other than the home  
22 office, authorized by the board of directors and approved by  
23 the department and at which any and all association business  
24 may be conducted.

25 (2) All branch offices shall be subject to direction

1: from the home office.

2 (3) No foreign association, state or federal, may  
3 establish or maintain a branch office within this state. No  
4 domestic association may establish or maintain a branch  
5 office without prior written approval of the department.  
6 Each application for approval of the establishment and  
7 maintenance of a branch office shall:

8 (a) state the proposed location thereof, the need  
9 therefor, the functions to be performed therein, the  
10 estimated annual expense thereof, and the mode of payment  
11 therefor;

12 (b) be accompanied by a fee of \$250, no part of which  
13 shall be refunded;

14 (c) be accompanied by a pro forma budget of the  
15 association for the current semiannual period and for the  
16 next succeeding semiannual period, which reflects the  
17 estimated additional expense of the maintenance of the  
18 branch office.

19 (4) After receipt of an application, the department  
20 shall determine:

21 (a) whether the establishment and maintenance of the  
22 branch office will unduly injure any properly conducted  
23 existing association in the community where the branch  
24 office is proposed to be established or in any neighboring  
25 community; and

1 (b) whether or not the establishment and maintenance  
2 of the branch office will serve the public interest.

3 (5) Prior to the issuance of a charter for a branch  
4 office, the department shall notify all associations doing  
5 business within a radius of 100 miles of the principal place  
6 of business of the applicant and within a radius of 100  
7 miles of the proposed branch office. Any association so  
8 notified may within 20 days protest in writing the granting  
9 of the application. Within 30 days after receipt by the  
10 department of the written protest, the department shall fix  
11 a date for a hearing upon the protest, which hearing shall  
12 be held not less than 60 days or more than 90 days from the  
13 date of receipt of written notice by registered or certified  
14 mail by the parties.

15 (6) If the department finds that no undue injury is  
16 likely to result and that the establishment and maintenance  
17 of the branch office is advisable and will serve the public  
18 interest, it may approve the application.

19 (7) Approval of an association's application for a  
20 branch office charter permits the association to establish  
21 an operating office in either a temporary or a permanent  
22 building, if the building is placed on or erected at the  
23 approved location within 6 months of such approval.

24 (8) For good cause and after notice to the  
25 association, the department may revoke its approval for the

1 maintenance of a branch office. Failure to establish a  
 2 branch office in the manner and within the time permitted  
 3 under this section constitutes a good cause for revocation  
 4 unless a prior written request for a waiver of the time  
 5 limitation is sought by the association and an extension, in  
 6 writing, is granted by the department.

7 (9) An association which maintains one or more branch  
 8 offices shall give each branch office a specific designation  
 9 by name and include in the designation the word "branch" and  
 10 shall prominently display the designation at the place of  
 11 business of the branch. When an association is operating a  
 12 branch office or offices, all advertising of or by any such  
 13 branch office shall state clearly the location of the  
 14 principal office of the association.

15 Section 27. Surety bond of association. (1) Every  
 16 association shall maintain bond coverage with a bonding  
 17 company which is acceptable to the department and the  
 18 federal savings and loan insurance corporation for an amount  
 19 to be determined by the department, not to exceed 5% of the  
 20 total assets of the association or an amount greater than  
 21 \$3,000,000, covering all directors, officers, employees,  
 22 agents, data processing service firms, and all other  
 23 operating hazards that are normally covered under such a  
 24 bond. The bond shall be in the form known as Standard Form  
 25 No. 22 or its equivalent or some other form which may be

1 acceptable to the federal savings and loan insurance  
 2 corporation and the department. The bond coverage may allow  
 3 for a deductible amount or provision adopted under Title 12,  
 4 Code of Federal Regulations, section 563.19(a), (b), and  
 5 (c), and under any subsequent amendments thereto.

6 (2) A copy of the surety bond shall be placed in the  
 7 custody of the department and the original maintained in the  
 8 office of the association at all times.

9 (3) The surety bond shall provide that a cancellation  
 10 thereof, either by the surety company or by the insured, is  
 11 not effective until 10 days' notice in writing is given to  
 12 the department or unless it earlier approves the  
 13 cancellation in writing.

14 (4) When requested by the department, the association  
 15 shall provide a duplicate copy of the invoice showing that  
 16 the bond premium has been paid or satisfied.

17 (5) The face amount of the surety bond shall comply  
 18 with the requirements of the federal savings and loan  
 19 insurance corporation.

20 Section 28. Service offices — approval required. (1)  
 21 No association shall open, maintain, or conduct a service  
 22 office without approval from the department.

23 (2) For good cause and after notice to the  
 24 association, the department may revoke its approval for the  
 25 maintenance of a service office.



1 Section 29. Restrictions on advertising. (1) An  
 2 association shall not issue nor publish nor cause nor permit to  
 3 be issued nor published any advertisement that it is doing or  
 4 is permitted to do any business which is prohibited by law  
 5 to an association or which misrepresents the nature of its  
 6 stock, investment certificates, savings deposits, or the  
 7 right of investors or depositors in respect thereto.

8 (2) An association may set forth in any of its  
 9 advertisements any of the purposes for which it is  
 10 organized.

11 (3) An association shall not issue, circulate, or  
 12 publish any advertisement after notice in writing from the  
 13 department that in its opinion the advertisement is  
 14 unauthorized, false, misleading, or likely to deceive the  
 15 public.

16 (4) An association shall not:

17 (a) state in any advertisement that it is under state  
 18 supervision or control;

19 (b) include in any advertisement or in any instrument  
 20 used by it a replica of the great seal of the state of  
 21 Montana;

22 (c) state or imply in any advertisement that funds may  
 23 be invested with such association at any place other than  
 24 the principal office or branch of the association;

25 (d) use the word "deposit" or "deposits" in any form

1 of advertising unless the use of the word is authorized in  
 2 the advertising of a Federal savings and loan association  
 3 pursuant to Federal law.

4 Section 30. Directors -- Number -- Filling of  
 5 vacancies -- Amendment of bylaws. (1) The business and  
 6 affairs of every association shall be managed and controlled  
 7 by a board of not less than 5 nor more than 15 directors, of  
 8 which not more than a minority, but not more than 3, may be  
 9 full-time officers of the association. The persons  
 10 designated in the articles of incorporation shall be the  
 11 first directors.

12 (2) Vacancies in the board of directors shall be  
 13 filled by vote of the stockholders at the annual meetings or  
 14 at a special meeting called for that purpose. The board of  
 15 directors may fill vacancies occurring on the board, such  
 16 appointees to serve until the next annual meeting of the  
 17 stockholders.

18 (3) The board of directors of any association may  
 19 amend the bylaws of the association.

20 Section 31. Directors -- Qualifications --  
 21 disabilities. No person shall be eligible to serve as a  
 22 director of an association without the written permission of  
 23 the department if he:

24 (1) has been adjudicated bankrupt or has taken the  
 25 benefit of any assignment for the benefit of creditors or

1 has suffered a judgment recovered against him for a sum of  
 2 money to remain unsatisfied of record or not safeguarded by  
 3 supersedeas bond on appeal for a period of more than 3  
 4 months;

5 (2) is an officer or employee of a commercial bank in  
 6 this state; or

7 (3) is not an investor in the association, owning in  
 8 his own right or in a representative capacity as an  
 9 executor, administrator, guardian, or trustee stock in the  
 10 association of the par value of at least \$1,000 or full-paid  
 11 investment certificates in the association of the value of  
 12 at least \$1,000 (for the purpose of [this act], a person who  
 13 owns stock or investment certificates as a joint tenant with  
 14 one other person shall be considered to own, in his own  
 15 right, one-half of such stock or investment certificates);  
 16 or

17 (4) sells or hypothecates all the stock or investment  
 18 certificates owned by him or so much thereof that he ceases  
 19 to be the owner, free from encumbrances, of the amount of  
 20 stock or investment certificates required by subsection (3).

21 Section 32. Removal of director, officer, or employee  
 22 on objection of department. If the department notifies the  
 23 board of directors of any association, in writing, that it  
 24 has information that any director, officer, or employee of  
 25 the association is failing in the performance of his duties,

1 the board of directors shall meet and consider the matter  
 2 forthwith. The department shall have notice of the time and  
 3 place of the meeting. If the board of directors finds the  
 4 department's objection to be well founded, the director,  
 5 officer, or employee shall be removed immediately.

6 Section 33. Removal of director for cause. (1) Any  
 7 director may be removed from office pursuant to [section 32]  
 8 by an affirmative vote of two-thirds of the members of the  
 9 board of directors at any regular meeting of the board of  
 10 directors or at any special meeting called for that purpose.  
 11 Such action shall be ratified at the next meeting of the  
 12 stockholders.

13 (2) No vote upon removal of a director may be taken  
 14 until he has been advised of the reasons therefor and has  
 15 had opportunity to submit to the board of directors his  
 16 statement relative thereto, either oral or written. If the  
 17 director affected is present at the meeting, he shall retire  
 18 after his statement has been submitted and prior to the vote  
 19 upon the matter of his removal.

20 Section 34. Fiduciary relationship of directors and  
 21 officers to association. Directors and officers of an  
 22 association stand in a fiduciary relation to the association  
 23 and shall discharge the duties of their respective positions  
 24 in good faith and with that diligence, care, and skill which  
 25 ordinary, prudent men would exercise under similar

1 circumstances in like position.

2 Section 35. Directors -- compensation and expenses.  
3 The directors of an association may receive reasonable  
4 compensation for their services as directors. This provision  
5 shall not prevent the payment of compensation and expenses  
6 to officers of the association who are also directors. All  
7 compensation and expenses shall be approved by the board of  
8 directors.

9 Section 36. Officers -- election -- salaries. (1) The  
10 board of directors of the association shall elect the  
11 officers named in the bylaws of the association, which  
12 officers shall serve at the pleasure of the board of  
13 directors.

14 (2) The principal officers' salaries shall be set by  
15 the board of directors.

16 Section 37. Directors -- meetings -- quorum. (1) The  
17 board of directors of each association shall hold a regular  
18 meeting at least once each month, at a time to be designated  
19 by it in accordance with its bylaws.

20 (2) Special meetings of the board of directors may be  
21 held upon notice to each director sufficient to permit his  
22 attendance. The president or any three members of the board  
23 of directors may call a meeting of the board of directors by  
24 giving notice to all of the directors.

25 (3) At any meeting of the board of directors, a

1 majority of the members shall constitute a quorum for the  
2 transaction of business.

3 Section 38. Communications from department to be read  
4 at board meeting -- incorporation in minutes. Every official  
5 communication by the department directed to the board of  
6 directors of an association shall be read at the next  
7 meeting of the board of directors and made a part of the  
8 minutes of such meeting.

9 Section 39. Statement of purchases and sales of real  
10 estate and securities and loans made or purchased to be  
11 considered at regular board meeting -- incorporation in  
12 minutes. The board of directors, by resolution recorded in  
13 the minutes, shall designate an officer whose duty it is to  
14 prepare and submit, at each regular meeting of the board of  
15 directors, a written statement of all the purchases and  
16 sales of real estate and securities and of every loan or  
17 contract made or purchased since the last regular meeting of  
18 the board of directors, describing the collateral securing  
19 the loan. The statement, certified by the designated officer  
20 to be correct as of the date of the meeting at which  
21 submitted, shall be considered by the board of directors at  
22 the meeting and be filed as a part of the minutes.

23 Section 40. Pensions and retirement plans for officers  
24 and employees. An association may provide for pensions,  
25 retirement plans, and other benefits for its officers and

1 employees and may contribute to the cost thereof in  
2 accordance with the plan adopted by its board of directors.

3 Section 41. Depositories of association funds --  
4 approval by directors. The board of directors shall approve  
5 the depository or depositories for funds of the association.

6 Section 42. Unlawful acts of officers, directors,  
7 employees, or capital stockholders -- penalty. (1) It is  
8 unlawful for an officer, director, employee, or capital  
9 stockholder of an association to:

10 (a) solicit, accept, or agree to accept, directly or  
11 indirectly, from any person other than the association, any  
12 gratuity, compensation, or other personal benefit for any  
13 action taken by the association or for endeavoring to  
14 procure any such action;

15 (b) have any interest, direct or indirect, in the  
16 purchase at less than its face value of any evidence of a  
17 savings account or other indebtedness issued by the  
18 association, excluding stock certificates and junior capital  
19 notes.

20 (2) It is unlawful for any stockholder with more than  
21 5% of the outstanding capital stock of an association, or  
22 any director or principal officer, to have any interest,  
23 direct or indirect, in the proceeds of a loan or of a  
24 purchase or sale made by the association unless the loan,  
25 purchase, or sale is authorized expressly by [this act] or

1 by a resolution of the board of directors of the  
2 association. The resolution shall be approved by a vote of  
3 at least two-thirds of all the directors of the association,  
4 and an interested director shall take no part in the vote.

5 (3) Any violation of the provisions of this section is  
6 a misdemeanor.

7 Section 43. Liability of directors, officers, and  
8 other persons. Any association director, officer, or other  
9 person who knowingly and willingly participates in any  
10 violation of [this act] is liable for all damage which the  
11 savings and loan association, its stockholders, savings  
12 depositories, or creditors sustain in consequence of such  
13 violation.

14 Section 44. Actions against officers, directors, or  
15 employees -- payment of expenses of defending action by  
16 association -- compromise settlements. (1) An association  
17 shall pay on behalf of or reimburse an officer, director, or  
18 employee for the expenses of defending an action brought on  
19 behalf of the association or the savings account holders,  
20 other creditors, or borrowers thereof, founded upon any act  
21 or acts performed or omitted by the person acting as such  
22 officer, director, or employee under the following  
23 conditions:

24 (a) If the person is adjudicated to be not liable,  
25 then all reasonable expenses of the litigation shall be paid

1 by the association.

2 (b) If the person is held to be liable on certain  
3 items and not liable on others, the association shall pay  
4 the proportion of the total reasonable expense of the  
5 litigation which the items on which he is held to be not  
6 liable bear to all the items alleged.

7 (2) If, in the opinion of the association, the person  
8 is not liable upon the substantive issues alleged, the  
9 association is authorized to compromise and settle such  
10 claim or litigation in its discretion and to pay the entire  
11 expense thereof, including the compromise settlement, if the  
12 expense is reasonable.

13 (3) Any action taken by the association under  
14 subsection (2) requires approval by a vote of at least  
15 two-thirds of all the directors of the association (an  
16 interested director taking no part in the vote) or by a  
17 majority vote of the stockholders.

18 Section 45. Certain state associations possess same  
19 powers and privileges possessed by federally chartered  
20 associations. (1) Notwithstanding any other provision of  
21 [this act], every company, association, or corporation  
22 licensed under the provisions of [this act] whose accounts  
23 are insured by the federal savings and loan insurance  
24 corporation or its successor or which is a member of a  
25 federal home loan bank or its successor as an insured

1 association possesses the same rights, powers, privileges,  
2 immunities, and exceptions which are possessed by any  
3 federally chartered association.

4 (2) When more permissive lending and investment  
5 privileges and provisions regarding payment of interest to  
6 savers or savings account holders, establishment of savings  
7 accounts the acceptance of which has been approved by the  
8 federal savings and loan insurance corporation, or other  
9 powers, privileges, immunities, and exceptions are extended  
10 to federally chartered associations, the same shall be  
11 extended to every federally insured association or  
12 corporation licensed under the provisions of [this act].

13 Section 46. Land and office buildings of association  
14 -- limitation on costs. (1) An association may purchase or  
15 lease property for its office buildings or construct its  
16 office buildings on property purchased or leased by it,  
17 provided that the total cost of land and improvements does  
18 not exceed 70% of the sum of the association's capital,  
19 surplus, and reserves.

20 (2) With the approval of the department, senior  
21 capital notes of the federal savings and loan insurance  
22 corporation may be included in capital for the purposes of  
23 this section.

24 Section 47. Trustee and custodial powers of  
25 association. (1) An association may act as a trustee or

1 custodian as provided by the Federal Employee Retirement  
2 Security Act of 1974, as amended or supplemented.

3 (2) An association subscribing to trustee and  
4 custodial power authorized by this section shall be required  
5 to segregate all funds held in such fiduciary capacity from  
6 the general assets of the association and keep a separate  
7 set of books and records showing in proper detail all  
8 transactions engaged in under the authority of this section.

9 (3) If individual records are kept of each  
10 self-employed individual retirement plan, all funds held in  
11 a trust or custodial capacity by the association may be  
12 commingled for appropriate purposes of investment.

13 (4) No funds held in a fiduciary capacity may be used  
14 by the association in the conduct of its business, although  
15 such funds may be invested in the savings accounts of the  
16 institution if the trust or custodial retirement plan does  
17 not prohibit the investment.

18 Section 48. Federal savings and loan associations to  
19 have same rights, powers, and immunities as domestic  
20 associations. Every federal savings and loan association  
21 incorporated under the provisions of the Home Owners' Loan  
22 Act of 1933, 12 U.S.C. 1461 through 1468, as amended or  
23 supplemented, having its principal place of business in  
24 Montana and the holders of shares or share accounts issued  
25 by the association have all the rights, powers, and

1 privileges and are entitled to the same exemptions and  
2 immunities granted, respectively, to savings and loan  
3 associations organized under [this act] and to the holders  
4 of savings accounts, investment certificates, or guaranty  
5 stock of state associations.

6 Section 49. Licenses for issuance or sale of permanent  
7 stock -- content -- conditions. (1) No association may sell  
8 or issue any of its permanent stock until it has applied for  
9 and secured from the department a license authorizing it to  
10 do so as provided in [section 24].

11 (2) Every license shall recite in bold type that the  
12 issuance thereof is permissive only and does not constitute  
13 a recommendation or endorsement of the stock permitted to be  
14 issued.

15 (3) Before the sale of any additional permanent  
16 capital stock, the association shall have the written  
17 approval of the department. No sale of additional permanent  
18 capital stock shall be approved for a price less than the  
19 book value of the permanent capital stock except with the  
20 approval of the department.

21 (4) The department may impose conditions requiring the  
22 impoundment of the proceeds from the sale of any stock,  
23 limiting the expense in connection with the sale, and such  
24 other conditions as are reasonable and necessary or  
25 advisable to insure the disposition of the proceeds from the

1 sale of the stock in the manner and for the purposes  
2 provided in the license.

3 Section 50. Annual licenses -- fees -- renewal --  
4 penalties. (1) The license mentioned in [section 49] shall  
5 authorize the company, association, or corporation to whom  
6 it is issued to sell its approved securities and contracts  
7 within this state for the remainder of the fiscal year  
8 ending on the following June 30. Each license shall be  
9 renewable, under like restrictions, annually thereafter.

10 (2) For the issuing of any license provided for in  
11 [section 49] and for any renewal thereof, the fee of the  
12 department shall be:

13 (a) for each home office, \$200;

14 (b) for each branch office, \$100.

15 (3) The fees shall accompany the license renewal  
16 application. A penalty of 10% of the fee payable shall be  
17 charged for each month or part thereof that the fees are not  
18 paid after June 30 of each year.

19 (4) All sums so received by the department shall be  
20 delivered to the state treasurer and shall be paid into the  
21 general fund.

22 Section 51. Licensing of salesmen -- license fees. (1)  
23 No person may, as a soliciting agent, soliciting  
24 representative, or employee of any foreign or domestic  
25 company, association, or corporation or in any other

1 capacity, sell or solicit sales for any investment  
2 certificates or savings accounts or contract for the sale of  
3 such certificates or accounts until he has been licensed as  
4 a salesman or solicitor for sales of such certificates or  
5 accounts by the department.

6 (2) No person may be licensed for a period of more  
7 than 1 year, and he may not be licensed until he has  
8 satisfied the department as to his personal integrity.

9 (3) For the issuing of any license provided for in  
10 this section and for any renewal thereof, the fee of the  
11 department shall be \$5. All sums received by the department  
12 shall be delivered to the state treasurer and shall be paid  
13 into the general fund.

14 (4) Tellers or other employees of an insured savings  
15 and loan association are exempt from the licensing  
16 requirements unless their employment entails soliciting  
17 sales as commission salesmen outside their respective  
18 offices.

19 Section 52. Stock, surplus, and undivided profits, and  
20 reserves to include percentage of value of outstanding  
21 investment certificates -- dividends on permanent stock --  
22 stock dividends. (1) The total permanent stock subscribed  
23 and paid plus the total of the surplus, undivided profits,  
24 and all reserves available for losses may not at any time be  
25 less than 5% of the aggregate certificate value of the

1 outstanding investment certificates of the association after  
 2 the 11th anniversary of the date of insurance of accounts.  
 3 The stock surplus, undivided profits, and reserves shall be  
 4 at least equal to the percentage of outstanding investment  
 5 certificates on each anniversary as stated below:

6	Date of insurance of accounts .....	3.0%
7	Second anniversary of date of insurance of accounts ...	3.2%
8	Third anniversary of date of insurance of accounts ....	3.4%
9	Fourth anniversary of date of insurance of accounts ...	3.6%
10	Fifth anniversary of date of insurance of accounts ....	3.8%
11	Sixth anniversary of date of insurance of accounts ....	4.0%
12	Seventh anniversary of date of insurance of accounts ..	4.2%
13	Eighth anniversary of date of insurance of accounts ...	4.4%
14	Ninth anniversary of date of insurance of accounts ....	4.6%
15	Tenth anniversary of date of insurance of accounts ....	4.8%
16	Eleventh anniversary of date of insurance of accounts ..	5.0%

17 (2) No dividends may be declared on permanent stock  
 18 until the total of the permanent stock, surplus, undivided  
 19 profits, and all reserves available for losses is equal to  
 20 the percentage required by subsection (1) of the outstanding  
 21 investment certificates and if payment of the dividends  
 22 would reduce the capital structure to an amount below such  
 23 percentage.

24 (3) Subject to the provisions of [this act], permanent  
 25 stock shall be entitled to the rate of dividend, if earned,

1 fixed by the board of directors. Stock dividends may be  
 2 declared by the board of directors at any time, payable only  
 3 from otherwise unallocated surplus and undivided profits.

4 (4) No stock dividend may be declared and paid for any  
 5 period in which the association has not declared and paid  
 6 interest upon its withdrawable accounts.

7 (5) The liability of an association on account of any  
 8 capital notes which are subordinated to all outstanding  
 9 investment certificates shall be considered a reserve  
 10 available for losses for the purposes of subsection (1) and  
 11 of [section 53], but no dividends may be declared on  
 12 permanent stock while any capital notes are outstanding,  
 13 without the written permission of the department.

14 Section 53. Acts prohibited when stock, surplus,  
 15 undivided profits, and reserves below amount specified. (1)  
 16 No association whose stock, surplus, undivided profits, and  
 17 reserves are less than the amount specified in [section 52]  
 18 may:

19 (a) issue investment certificates or withdrawal  
 20 accounts except in lieu of investment certificates or  
 21 withdrawal accounts theretofore issued;

22 (b) receive additional funds upon investment  
 23 certificates or withdrawal accounts other than installment  
 24 investment certificates or installment withdrawal accounts.

25 (2) The provisions of this section do not prevent the



1 crediting to investment certificates of interest earned  
2 thereon or the crediting to withdrawal accounts of interest  
3 thereon if the payment of such interest is not otherwise  
4 prohibited by the provisions of [this act].

5 Section 54. Impairment of permanent stock -- levy of  
6 assessment to repair deficiency -- reduction of permanent  
7 stock. (1) If the department, as a result of any examination  
8 or from any report made to it, finds that the permanent  
9 stock of any association is impaired, it shall notify the  
10 association that the impairment exists and shall require the  
11 association to make good the impairment within 90 days after  
12 the date of the notice.

13 (2) If the amount of the impairment as determined by  
14 the department is questioned by the association, then upon  
15 application filed within 10 days after the notice from the  
16 department that the impairment exists, the association has  
17 the right to have the value of the assets in question  
18 determined by appraisals made by independent appraisers  
19 acceptable to the department and the association.

20 (3) The directors of the association upon which the  
21 notice has been served shall levy a pro rata assessment upon  
22 the permanent stock to make good the impairment. They shall  
23 cause notice of the requirement of the department and of the  
24 levy to be given in writing to each stockholder of the  
25 association, together with the amount of assessment which he

1 must pay for the purpose of making good the impairment. In  
2 lieu of making the assessment, the impairment may be made  
3 good, without the consent of the department, by reduction of  
4 the permanent stock. Any stockholder who does not make  
5 payment under the assessment shall transfer sufficient stock  
6 to the association to pay his pro rata share of the  
7 assessment, and there shall be no further liability to the  
8 stockholder.

9 Section 55. Investment certificates -- rights and  
10 liabilities of holders -- types of certificates. (1) An  
11 association may issue investment certificates, with or  
12 without passbooks. The holders of investment certificates  
13 are not liable for debts or assessments and are entitled  
14 upon liquidation of an association to receive payment in  
15 full before any payment or distribution is made to  
16 stockholders. The holders of investment certificates have no  
17 right to participate in the profits of the association.

18 (2) Investment certificates may be issued as full-paid  
19 investment certificates, accumulative investment  
20 certificates, minimum-term investment certificates, or other  
21 types of certificates approved by the department.

22 Section 56. Reserve for losses. A reserve for losses  
23 shall be maintained by each association, which shall allow  
24 for the write-down of assets to their fair market value in  
25 accordance with generally accepted accounting principles.

1 Section 57. Permissible investments. (1) An  
2 association may invest in:

3 (a) without limit, obligations of or obligations  
4 guaranteed as to principal and interest by the United States  
5 or any state;

6 (b) obligations of the United States postal service,  
7 whether or not guaranteed as to principal and interest by  
8 the United States;

9 (c) stock of a federal home loan bank of which it is  
10 eligible to be a member;

11 (d) any obligations or consolidated obligations of any  
12 federal home loan bank or banks;

13 (e) stock or obligations of the federal savings and  
14 loan insurance corporation;

15 (f) stock or obligations of a national mortgage  
16 association or any successor or successors thereto,  
17 including the federal national mortgage association;

18 (g) demand, time, or savings deposits with any bank or  
19 trust company the deposits of which are insured by the  
20 federal deposit insurance corporation;

21 (h) stock or obligations of any corporation or agency  
22 of the United States or any state or in deposits therewith  
23 to the extent that such corporation or agency assists in  
24 furthering or facilitating the association's purposes or  
25 powers;

1 (i) savings accounts of any insured state-licensed  
2 association and of any federal savings and loan association,  
3 but each investment in any other savings and loan  
4 association shall be fully insured by the federal savings  
5 and loan insurance corporation;

6 (j) bonds, notes, or other evidences of indebtedness  
7 which are general obligations of any city, town, county,  
8 school district, or other municipal corporation or political  
9 subdivision of any state.

10 (2) An association may invest any portion of its funds  
11 in loans secured by first-lien deeds of trust or mortgages  
12 upon real property. Additional loans or advances on the same  
13 property without intervening liens shall be considered to be  
14 first liens for the purpose of [this act], but no one  
15 nonresidential loan can be made in excess of 2% of the total  
16 savings accounts of the association unless approved in  
17 writing by the department.

18 (3) No association may create loans by investment in  
19 real property further than 100 miles from its home office  
20 unless it has the prior written approval of the department.  
21 The investment may include the subdivision and development  
22 of the real property principally for residential use. An  
23 association shall not have investments under this subsection  
24 at any time greater than 5% of its assets. No investment  
25 made pursuant to this subsection may be held by an

1 association for more than 3 years except with the written  
2 permission of the department.

3 Section 58. Investments in related service  
4 corporations. (1) An association may invest in the capital  
5 stock, obligations, or other securities of a related service  
6 corporation organized under the [this act], except a  
7 corporation organized for the underwriting or sale of  
8 insurance, subject to any rules and regulations which are  
9 applicable to federally chartered associations and to  
10 whatever rules the department may impose in this regard, if  
11 the entire capital stock of the corporation is available for  
12 purchase by associations organized under [this act] only.

13 (2) No association may make any such investment if its  
14 aggregate, outstanding investments, pursuant to subsection  
15 (1), would then be in excess of 1% of its assets.

16 Section 59. Investments in real property for  
17 subdivision or residential development. (1) No investment in  
18 real property for purposes of subdivision or for residential  
19 development may exceed the market value or appraisal  
20 valuation as evidenced by an appraisal report prepared  
21 within 120 days of the investment by a member of the  
22 American Institute of Real Estate Appraisers, the Society of  
23 Real Estate Appraisers, or the Independent Fee Appraisers  
24 Society or by any other appraiser approved by the  
25 department.

1 (2) Before the investment is made, the association  
2 shall provide the department with a certified copy of one or  
3 more appraisal reports on the real property involved and  
4 with a title insurance company report reflecting the chain  
5 of title for a period of at least 3 years and the amount of  
6 consideration, as available, given for each title transfer  
7 that may have occurred during the reported period. If the  
8 total amount to be invested in undeveloped real property  
9 exceeds 1/2 of 1% of the association's total savings  
10 accounts, the investment may not be made until the  
11 department has given its written approval.

12 (3) The department may require a statement from the  
13 association disclosing whether or not any director, officer,  
14 or employee of the association has a direct or indirect  
15 interest in the real property involved or has had any such  
16 interest at any time during the past 3 years. Stock  
17 ownership in an interested corporation may be considered the  
18 direct or indirect interest of the investor. Failure to make  
19 any required disclosure is unlawful.

20 Section 60. Purchases of loans. The power of an  
21 association to make loans shall include:

22 (1) the power to purchase loans of any type that the  
23 association may make;

24 (2) the power to make loans upon the security of loans  
25 of any type that the association may make.

1 Section 61. Purchases of real property contracts --  
 2 conditions. An association may invest its funds in the  
 3 purchase of real property contracts under the following  
 4 conditions only:

5 (1) It must acquire the merchantable title to the  
 6 property covered by such contracts.

7 (2) The type of property must be such as would be  
 8 eligible for a mortgage or deed of trust loan under [this  
 9 act].

10 (3) Before making any such purchase, the property  
 11 shall be appraised and the purchase approved, as in the case  
 12 of deed of trust loans, by the board or the executive  
 13 committee of the association.

14 Section 62. Federal bonds and obligations eligible as  
 15 investments. Any savings and loan association may invest its  
 16 funds or money in its custody in the bonds of any federal  
 17 home loan bank or in consolidated federal home loan bank  
 18 bonds, debentures, or notes or in farm loan bonds,  
 19 consolidated farm loan bonds, debentures, consolidated  
 20 debentures, and other obligations issued by federal land  
 21 banks and federal intermediate credit banks under the  
 22 authority of the Farm Credit Act of 1971, 12 U.S.C. 2001  
 23 through 2259, as amended or supplemented, and the bonds,  
 24 debentures, consolidated debentures, and other obligations  
 25 issued by banks for cooperatives under the authority of the

1 Farm Credit Act of 1971, 12 U.S.C. 2001 through 2259, as  
 2 amended or supplemented.

3 Section 63. Sale or other disposal of notes or  
 4 obligations held by association -- restrictions. (1) No  
 5 association shall sell, exchange, transfer, pledge,  
 6 hypothecate, or otherwise dispose of or encumber any notes  
 7 or other obligations held by it evidencing any loan made or  
 8 purchased by it, or the mortgages, trust deeds, or other  
 9 security therefor, that has been on the books of the  
 10 association for 3 years or longer without the approval of  
 11 the department. All loans sold shall be sold without  
 12 recourse and, if under a contract to service the same, on a  
 13 basis to provide sufficient compensation to the association  
 14 to reimburse it for expenses incurred under its service  
 15 contract.

16 (2) This section does not apply to loans sold in which  
 17 the association retains a participating interest or to loans  
 18 pledged as security for borrowing as provided in [section 64  
 19 or section 66].

20 Section 64. Association may become member and  
 21 stockholder of federal home loan bank, borrow money, and  
 22 invest in bonds. (1) Any savings and loan association which  
 23 may now or hereafter be eligible to become a member of any  
 24 federal home loan bank according to the terms of the Federal  
 25 Home Loan Bank Act, 12 U.S.C. 1421 through 1449, as amended

1 or supplemented, may:

2 (a) subscribe for, purchase, own, and hold stock in a  
3 federal home loan bank and become a member thereof;

4 (b) borrow money from any federal home loan bank  
5 pursuant to the Federal Home Loan Bank Act, as amended or  
6 supplemented;

7 (c) invest in the bonds of any federal home loan bank;

8 (d) give its obligations and pledge securities and  
9 conform to the provisions of the Federal Home Loan Bank Act  
10 and to the rules and regulations from time to time fixed and  
11 prescribed either by the federal home loan bank board or the  
12 federal home loan bank of which it is a member;

13 (e) perform any acts and execute any instruments  
14 authorized or required by the Federal Home Loan Bank Act, as  
15 amended or supplemented, or by rules and regulations adopted  
16 pursuant to the act.

17 (2) All acts authorized by subsection (1) performed  
18 prior to July 1, 1979, are hereby validated and confirmed.

19 Section 65. Association may issue capital notes --  
20 voting rights of holders. The power of an association to  
21 borrow money and contract debts shall include the power to  
22 issue capital notes evidencing such borrowing and to  
23 subordinate the same to investment certificates and other  
24 liabilities. An association may confer upon the holders of  
25 any capital notes issued or to be issued by the association

1 such rights to vote in the election of directors and on any  
2 other matters as shall be stated and expressed in the  
3 articles of incorporation or in any amendment thereto.

4 Section 66. Limitation on borrowing. The aggregate  
5 amount of all borrowing of any association in force at any  
6 one time, excluding borrowing from the federal home loan  
7 banks, the federal savings and loan insurance corporation,  
8 or other similar federal agencies, shall not exceed 5% of  
9 the total assets of the association without the approval of  
10 the department.

11 Section 67. Loans and advances of credit insured by  
12 federal housing administrator or veterans administration.  
13 (1) Subject to such regulations as may be prescribed by the  
14 federal housing administrator or veterans administration,  
15 savings and loan associations may:

16 (a) make such loans and advances of credit and  
17 purchases of obligations representing the loans and advances  
18 of credit as are eligible for insurance by the federal  
19 housing administrator or are guaranteed by the veterans  
20 administration and may obtain such insurance;

21 (b) make such loans secured by mortgage on real  
22 property as are eligible for insurance by the federal  
23 housing administrator or are guaranteed by the veterans  
24 administration and may obtain such insurance;

25 (c) purchase, invest in, and dispose of notes or bonds

1 secured by mortgage insured by the federal housing  
2 administrator or guaranteed by the veterans administration,  
3 securities of national mortgage associations, and debentures  
4 issued by the veterans administration or the federal housing  
5 administrator.

6 (2) No law of this state or any articles of  
7 incorporation or bylaws of any savings and loan associations  
8 prescribing the nature, amount, or form of security or  
9 requiring security upon which loans or advances of credit  
10 may be made or prescribing or limiting interest rates upon  
11 loans or advances of credit or prescribing or limiting the  
12 period for which loans or advances of credit may be made  
13 apply to loans, advances of credit, or purchases made  
14 pursuant to subsection (1).

15 (3) All loans, advances of credit, and purchases of  
16 obligations described in this section heretofore made and  
17 insured pursuant to the terms of the National Housing Act or  
18 Servicemen's Readjustment Act of 1944 are hereby validated  
19 and confirmed.

20 Section 68. Investment in federal national mortgage  
21 association. Notwithstanding any other provision of law, any  
22 savings and loan association organized under [this act]  
23 which has as one of its principal purposes the making or  
24 purchasing of loans secured by real property mortgages is  
25 authorized to sell such mortgage loans to the federal

1 national mortgage association, a corporation chartered by an  
2 act of congress, or any successor thereof and in connection  
3 therewith to make payments of any capital contributions,  
4 required pursuant to law, in the nature of subscriptions for  
5 stock of the federal national mortgage association or any  
6 successor thereof, to receive stock evidencing such capital  
7 contributions, and to hold or dispose of such stock.

8 Section 69. Loans and investments not limited. (1)  
9 Nothing in [this act] requires any association to sell,  
10 transfer, or dispose of any investment or loan made or  
11 purchased by the association before July 1, 1979. Any  
12 association may:

13 (a) renew, extend the time of payment of, or rewrite  
14 any loan made before such date;

15 (b) make additional advances or loans for the purpose  
16 of preserving the security of the loan or for the purpose of  
17 protecting the property securing the loan;

18 (c) make any renewal, extension, advance, or loan to  
19 the borrower or to any successor in interest in the property  
20 securing the loan;

21 (d) make loans on property sold by an association or  
22 extend credit thereon for the purpose of facilitating the  
23 sale of the property regardless of any other provision of  
24 [this act].

25 (2) No advance or loan may be made under the

1 provisions of this section if such advance or loan would  
 2 increase the total liability of the association making the  
 3 advance or loan to more than 1% of total assets, except with  
 4 the approval of the department.

5 (3) For the purpose of preserving the security of any  
 6 loan or of protecting the property securing any loan made in  
 7 compliance with [this act], an association may make  
 8 additional advances or loans to the borrower or any  
 9 successor in interest in the property securing the loan.  
 10 Regardless of any other provision of [this act], an  
 11 association may make loans or extend credit for the purpose  
 12 of facilitating the sale of property acquired by foreclosure  
 13 or by conveyance in lieu of foreclosure.

14 Section 70. Associations empowered to insure accounts.  
 15 Any association, company, or corporation which may be  
 16 eligible to do so under the terms of the National Housing  
 17 Act, 12 U.S.C. 1701 through 1750, may insure, pursuant to  
 18 Title IV of the National Housing Act, any and all of its  
 19 accounts as such accounts now or hereafter may be defined  
 20 under Title IV of the National Housing Act and do all things  
 21 necessary to effect such insurance.

22 Section 71. Variable interest rate loans. (1) An  
 23 association may make variable interest rate loans.

24 (2) No increase in interest provided for in any  
 25 provision for a variable interest rate contained in a

1 security document or evidence of debt issued in connection  
 2 therewith is valid unless such provision is set forth in  
 3 such security document and in any evidence of debt issued in  
 4 connection therewith and such document or documents contain  
 5 the following provisions:

6 (a) a requirement that when an increase in the  
 7 interest rate is required or permitted by a movement in a  
 8 particular direction of a prescribed standard, an identical  
 9 decrease is required in the interest rate by a movement in  
 10 the opposite direction of the prescribed standard;

11 (b) that the rate of interest is to change not more  
 12 often than once during any semiannual period and at least 6  
 13 months shall elapse between any two such changes;

14 (c) that the change in the interest rate shall not  
 15 exceed 1/4 of 1% in any semiannual period and shall not  
 16 result in a rate more than 2.5 percentage points greater  
 17 than the rate for the first loan payment due after the  
 18 closing of the loan;

19 (d) that the rate of interest shall not change during  
 20 the first semiannual period;

21 (e) that the borrower is permitted to prepay the loan  
 22 in whole or in part without a prepayment charge within 90  
 23 days of notification of any increase in the rate of  
 24 interest.

25 (3) A statement shall be attached to the security

1 document and to any evidence of debt issued in connection  
2 therewith and shall be printed or written in a size equal to  
3 at least 10-point bold type, consisting of the following  
4 language:

5 NOTICE TO BORROWER: This document contains provisions  
6 for a variable interest rate.

7 (4) The provisions of this section are applicable only  
8 to a mortgage contract, deed of trust, real estate sales  
9 contract, or any note or negotiable instrument issued in  
10 connection therewith when its purpose is to finance the  
11 purchase or construction of real property containing four or  
12 fewer residential units or on which four or fewer  
13 residential units are to be constructed.

14 Section 72. Loans on certain homes -- direct reduction  
15 plan. An association may make real property home loans on  
16 the direct reduction plan, repayable in equal or unequal  
17 monthly installments, sufficient to retire the debt,  
18 interest, and principal within 30 years, except that this  
19 30-year limitation does not apply to loans made by an  
20 association which are insured by the federal housing  
21 administration, which are guaranteed under the provisions of  
22 the Servicemen's Readjustment Act of 1944, as amended or  
23 supplemented, which are otherwise insured or guaranteed by  
24 the United States or any agency or instrumentality thereof,  
25 or which have been extended in time solely as a result of

1 variances in interest rates during the loan term, but the  
2 loan contract shall not provide for any subsequent monthly  
3 installment of an amount larger than any other previous  
4 monthly installment in excess of 50%. The monthly payments  
5 required shall be applied first to advances and interest on  
6 the unpaid balance of the debt and the remainder to the  
7 reduction of the debt until the loan is paid in full.

8 Section 73. Loans to other corporations. (1) No  
9 association may make any loans to a corporation of which a  
10 majority of the stock is owned or controlled individually or  
11 collectively by any one or more of the directors or officers  
12 or majority stockholders of the association unless the loan  
13 is authorized expressly by [this act] or by a resolution of  
14 the board of directors of the association. The resolution  
15 shall be approved by a vote of at least two-thirds of all  
16 disinterested directors of the association.

17 (2) An association may make loans to any corporation  
18 in which any director or officer of the association is a  
19 minority stockholder, on authorization of or confirmation  
20 within 30 days after making the loan by the affirmative vote  
21 of all the disinterested directors of the association  
22 present at the meeting authorizing or confirming the loan,  
23 when the affirmative vote constitutes a majority of all the  
24 directors. The interested director or officer shall not vote  
25 or participate in any manner in the action of the board of



1 directors upon the loan. The authorization or confirmation  
 2 shall be entered in the minutes of the association. The loan  
 3 shall in all other respects comply with the provisions  
 4 covering the granting of loans.

5 (3) If a loan is made to a corporation as set forth in  
 6 subsection (2) and if the director or officer of the  
 7 association owns more than 5% of the paid-in capital of the  
 8 corporation or if any two or more officers or directors own  
 9 more than 20% of the paid-in capital of the corporation, the  
 10 association shall file reports with the department showing  
 11 the following:

- 12 (a) the fact of making the loan;
- 13 (b) the names of the directors authorizing or  
 14 confirming the loan;
- 15 (c) the corporate name of the borrower;
- 16 (d) the name of each director or officer of the  
 17 association who is a stockholder, officer, or director of  
 18 the corporation to which the loan is made;
- 19 (e) the amount of stock held by the officer or  
 20 director in the corporation;
- 21 (f) the amount of the loan, the rate of interest  
 22 thereon, the time when the loan becomes due, the amount,  
 23 character, and value of the security given therefor, and the  
 24 fact of final payment when made.

25 Section 74. Short-term real property loans under

1 direct reduction plan. An association may make short-term  
 2 real property loans under the direct reduction loan plan in  
 3 accordance with [section 1](5) and [section 72], and the  
 4 initial loan contract may provide for monthly installments  
 5 of an amount more than 50% larger than any previous monthly  
 6 installment.

7 Section 75. Payments on monthly installment loans.  
 8 Payments on all monthly installment loans, other than  
 9 construction loans, insured loans, and guaranteed loans,  
 10 shall begin not later than 60 days after the advance of the  
 11 loan. Insured loans and guaranteed loans may be repayable  
 12 upon terms acceptable to the insuring or guaranteeing  
 13 agency. Monthly payments of principal on any construction  
 14 loans made on this plan shall begin not later than 18 months  
 15 after the date of the loan or advance. Interest payments on  
 16 any construction loans made on this plan shall begin not  
 17 later than 30 days after the date of the loan or  
 18 disbursement of any funds.

19 Section 76. Noninstallment, straight mortgage loans.  
 20 Any loan of a type that an association may make on a monthly  
 21 installment basis, except loans on unimproved real property,  
 22 may also be made without full amortization of principal, but  
 23 with interest payable at least semiannually, for an amount  
 24 not in excess of 60% of the value of the security and for a  
 25 term of not more than 5 years. When the directors of an

1 association have authorized loans to be made without full  
 2 amortization for an amount exceeding 60% of the value of the  
 3 security, the loans may be made up to the percentage of  
 4 value authorized by the directors, but not in excess of 70%  
 5 of the value and for a term of not more than 3 years.

6 Section 77. Loans on real property for construction --  
 7 straight mortgage plan. An association may make real  
 8 property loans for the purpose of construction on the  
 9 straight mortgage plan without amortization of principal but  
 10 with interest payable at least semiannually, but such loans  
 11 may be made for an amount not in excess of 80% of the value  
 12 of a home or combination home and business property or 75%  
 13 of the value of other improved real property and for a term  
 14 of not more than 18 months.

15 Section 78. Loans on improved or unimproved real  
 16 property -- direct reduction plan. (1) An association may  
 17 make loans secured by real property on the direct reduction  
 18 plan:

19 (a) on residential property, including a combination  
 20 home and business property, repayable within 30 years, up to  
 21 80% of the value or, for a loan guaranteed or insured by a  
 22 governmental agency, up to the maximum number of years and  
 23 percentage of value acceptable to that agency;

24 (b) on other improved real property, up to 75% of the  
 25 value if the loan is repayable within 25 years; and

1 (c) on unimproved real property, up to 60% of the  
 2 value if the loan is repayable within 6 years or up to  
 3 two-thirds of the value if the loan is repayable within 3  
 4 years.

5 (2) Such loans shall not at any time exceed 3% of the  
 6 total assets of the association.

7 Section 79. Loans to one borrower. (1) An association  
 8 may not make at one time loans to any one borrower or under  
 9 any one transaction or applicable to any one project or  
 10 tract if the loans in the aggregate are in excess of  
 11 whichever of the following is the lesser:

12 (a) 5% of its total savings accounts, unless such  
 13 requirement is waived by written approval of the department;

14 (b) an amount equal to the sum of its capital,  
 15 surplus, undivided profits, loan reserve, federal insurance  
 16 reserve, capital notes, and such other reserves as the  
 17 department may prescribe.

18 (2) For the purpose of this section, the term "one  
 19 borrower" means:

20 (a) any person or entity that is or that upon the  
 21 making of a loan will become obligor on a loan on the  
 22 security of real estate;

23 (b) nominees of such obligor;

24 (c) all persons, trusts, partnerships, syndicates, and  
 25 corporations of which such obligor is a nominee or a

1 beneficiary, partner, member, or stockholder of record or  
2 beneficial interest stockholder owning 10% or more of the  
3 capital stock of any corporation;

4 (d) if such obligor is a trust, partnership,  
5 syndicate, or corporation, all trusts, partnerships,  
6 syndicates, and corporations of which any beneficiary,  
7 partner, member, or stockholder of record or beneficial  
8 interest stockholder owning 10% or more of the capital stock  
9 is also a beneficiary, partner, member, or stockholder of  
10 record or beneficial interest stockholder owning 10% or more  
11 of the capital stock of the association.

12 (3) For the purpose of this section, the term "loans  
13 to any one borrower" means the amount of the new loan plus  
14 the total balances of all outstanding loans on the security  
15 of real estate owed to the association by the borrower.  
16 Notwithstanding any other limitations of this section, no  
17 such loan may be made if the new loan when added to the  
18 total balances of all outstanding loans on the security of  
19 real estate owed to the association by the borrower does not  
20 exceed \$250,000.

21 (4) For the purpose of this section, the term  
22 "balances of all outstanding loans" means the original  
23 amounts loaned by the association plus any additional  
24 advances and interest due and unpaid, less repayments and  
25 participating interests sold, and exclusive of any loan on

1 the security of real estate the title to which has been  
2 conveyed to a bona fide purchaser of real estate.

3 (5) If an association makes a loan to any one borrower  
4 in an amount which, when added to the total balances of all  
5 outstanding loans on the security of real estate owed to the  
6 association by the borrower, exceeds \$250,000, the records  
7 of the association with respect to the loan shall include  
8 documentation showing that the loan was made within the  
9 limitations of [this act]. For the purpose of such  
10 documentation, the association may require and may accept in  
11 good faith a certification by the borrower identifying the  
12 persons, entities, and interests described in the definition  
13 of one borrower in subsection (2).

14 Section 80. Payment of charges by association for  
15 protection of its investments -- required advance monthly  
16 payments. (1) (a) An association may pay:

17 (i) current or past-due taxes or assessments levied  
18 upon secured property;

19 (ii) insurance premiums;

20 (iii) life insurance premiums on policies that an  
21 association may require to be assigned as additional  
22 collateral; or

23 (iv) other similar charges required for the protection  
24 of its investments.

25 (b) Such payments shall be added to the unpaid loan

1 balance and shall have the same secured status under the  
 2 deed of trust provisions as the loan itself. No association  
 3 may require, as a condition of loan approval or in the  
 4 extension of any other service, that any kind of insurance  
 5 coverage be purchased from or through the association or  
 6 from any agency in which a director or officer of the  
 7 corporation has any interest.

8 (2) (a) An association may require advance monthly  
 9 payments on:

- 10 (i) principal;
- 11 (ii) interest;
- 12 (iii) taxes;
- 13 (iv) assessments;
- 14 (v) insurance premiums;
- 15 (vi) other statutory charges accruing upon the secured  
 16 property.

17 (b) Each payment may be equivalent to one-twelfth of  
 18 the estimated annual amount due. Monthly charges may be  
 19 adjusted to provide a reasonable method for the payment of  
 20 estimated taxes, assessments, insurance premiums, and other  
 21 charges. Upon receipt thereof, payments may be carried in a  
 22 separate trust account or they may be applied to the loan  
 23 account as a credit upon receipt and debit when disbursed.

24 Section 81. Permitted loans when resulting aggregate  
 25 amount does not exceed thirty percent of association's

1 assets. An association may make loans of the types  
 2 enumerated in this section on the security of first liens on  
 3 improved real property only when the resulting aggregate  
 4 amount of the following investments does not exceed 30% of  
 5 the association's assets:

- 6 (1) residential loans in excess of the greater of:
  - 7 (a) 1/2 of 1% of the association's assets; or
  - 8 (b) \$80,000, after deducting each part of any such  
 9 loan, if secured by a blanket mortgage, which is  
 10 apportionable in an amount not exceeding \$80,000 to each  
 11 home or combination of home and business property and  
 12 residential property which is part of the security;
- 13 (2) loans on improved real property other than homes  
 14 or combination homes and business property and residential  
 15 property;
- 16 (3) loans on improved real property located outside  
 17 the regular lending area of the association unless the loans  
 18 are protected by insurance as provided in the National  
 19 Housing Act or the Servicemen's Readjustment Act of 1944, as  
 20 now or hereafter amended;
- 21 (4) noninstallment or straight mortgage loans, except  
 22 construction loans;
- 23 (5) (a) loans on one-family, owner-occupied homes, in  
 24 an amount between 80% and 90%, inclusive, of the value if:  
 25 (i) impounds are collected for taxes and insurance;

1 (ii) the association has made or obtained, prior to the  
2 approval of the loan, a written report on the credit  
3 standing of the borrower, showing the financial ability of  
4 the borrower to undertake and pay off the obligation  
5 involved in the loan;

6 (iii) the association has obtained, prior to approval  
7 of the loan, a certification in writing to the association  
8 stating:

9 (A) the purpose for which the loan is sought and, if  
10 for the purpose of enabling the borrower to purchase the  
11 security property, the name of the vendor or vendors and the  
12 purchase price;

13 (B) that there will be no liens upon the property  
14 other than the lien of the association; and

15 (C) that the borrower is actually occupying the  
16 property as a dwelling or that the borrower in good faith  
17 intends to do so;

18 (iv) the loan does not exceed \$65,000, 90% of the value  
19 of the real property securing the loan, or 90% of the  
20 purchase price of the property, whichever is the lowest;

21 (v) if the loan is sought to finance the construction  
22 of a single-family dwelling, the amount of the loan which  
23 exceeds 80% of the appraised value shall not be disbursed  
24 until construction has been fully completed;

25 (b) loans granted under [this act] will be repayable

1 monthly within 30 years;

2 (c) the record of each loan shall show the date and  
3 amount of the appraisal on which the loan was made and the  
4 date of approval of the loan by the board of directors or  
5 the loan committee.

6 Section 82. Exceptions. Subsection (5) of [section 81]  
7 does not apply to:

8 (1) home loans in excess of 80% of value up to 95% of  
9 value if the excess over 80% is insured by a private insurer  
10 approved by the federal home loan mortgage corporation,  
11 except that such insured loans in excess of 90% of value  
12 shall not exceed \$50,000;

13 (2) home loans in excess of 80% of value if the excess  
14 over 80% is insured or guaranteed by an agency or  
15 instrumentality of the federal government or a state whose  
16 full faith and credit is pledged to the support of the  
17 insurance or guarantee.

18 Section 83. Loans for property alteration, repair, or  
19 improvement without security of lien -- loans for furniture  
20 or fixtures for apartments, motels, and hotels --  
21 conditions. (1) An association may make loans for property  
22 alteration, repair, or improvement without the security of a  
23 lien upon such property if the loans are accepted for  
24 insurance under the provisions of the National Housing Act,  
25 as now or hereafter amended, or for insurance or guarantee

1 under the provisions of the Servicemen's Readjustment Act of  
2 1944, as now or hereafter amended, and if:

3 (a) the net proceeds of any such loan do not exceed  
4 \$10,000;

5 (b) the property is located in the association's  
6 regular lending area;

7 (c) each loan is evidenced by one or more negotiable  
8 notes, bonds, or other written evidences of debt;

9 (d) the resulting aggregate amount of all such loans  
10 does not exceed an amount equal to 15% of the association's  
11 assets.

12 (2) In addition to the foregoing, the association may  
13 make loans for property alteration, repair, or improvement  
14 with the security of at least a second deed of trust upon  
15 the property if the net proceeds of any such loan do not  
16 exceed \$10,000.

17 (3) An association may make loans for furniture,  
18 furnishings, fixtures, or equipment for use in an apartment,  
19 motel, or hotel property on which the association has a  
20 first lien. These loans shall be secured by a chattel  
21 mortgage and a second deed of trust. The loan shall be  
22 repaid in installments, but the term of repayment shall not  
23 be longer than 5 years. The total of all loans of this type  
24 shall be limited to 5% of assets.

25 Section 84. Limitation on charge for prepayment of

1 loan. Associations may not charge an amount greater than 180  
2 days' interest on the amount prepaid for the privilege of  
3 prepayment in part or in full of any real property loan.

4 Section 85. Loans prohibited on security of  
5 association's own stock. No association may loan any of its  
6 funds upon the security of its own stock.

7 Section 86. Acquisition by association of real  
8 property by foreclosure or conveyance in lieu of foreclosure  
9 -- subsidiary ledger records. (1) When an association  
10 acquires title to any real property by foreclosure or by a  
11 conveyance in lieu of foreclosure, the document representing  
12 the transaction must be recorded immediately.

13 (2) An appropriate account shall be set up for the  
14 property acquired, and a separate subsidiary ledger or other  
15 appropriate record shall be maintained therefor. The amount  
16 carried in the account shall be the sum of the unpaid  
17 principal balance of the loan plus foreclosure costs, less  
18 any advance payments and any funds held in the  
19 loans-in-process account at the time of acquisition,  
20 together with:

21 (a) any amounts paid after acquisition for real  
22 property taxes which have accrued prior to acquisition;

23 (b) assessments due or delinquent at the time of  
24 acquisition; and

25 (c) necessary acquisition costs and costs of insurance

1 premiums.

2 (3) The subsidiary ledger record or other appropriate  
3 record on each property acquired shall indicate:

4 (a) the type and character of the property acquired;

5 (b) all capitalized items of investment, with related  
6 costs;

7 (c) former loan or contract-of-sale account numbers.

8 Section 87. Department's approval of appraiser  
9 necessary -- limitations -- revocation -- notice of  
10 termination of services. No loan may be made upon the  
11 appraisal of nor shall compensation for any appraisal be  
12 paid to any appraiser, officer, or member of any committee  
13 who has not been first approved in writing by the department  
14 for the association. The approval is subject to such  
15 limitations as the department provides and may be revoked  
16 for cause by the department, after giving due notice to the  
17 appraiser and the association and holding a hearing. The  
18 association shall give notice in writing to the department  
19 of the termination of the services of any appraiser within  
20 15 days of the termination.

21 Section 88. Appraisal of real estate required prior to  
22 granting loan -- requirements. Every association shall  
23 appraise each parcel of real estate prior to the granting of  
24 a loan. The appraisal shall be in ink or typed, be dated and  
25 identify the security, specify separate valuations for land

1 and improvements, show the fair market value, and be signed  
2 in ink. The appraised value shall be the value of the land  
3 and the permanent improvements thereon. If the appraisal  
4 covers land only, it shall show that the appraisal covers  
5 unimproved land or covers building lots or sites which by  
6 reason of installations and improvements are ready for the  
7 construction of buildings thereon. The appraisal shall be  
8 reviewed by the board of directors or by a loan committee  
9 designated by the board of directors, in which case all  
10 actions of the loan committee shall be affirmed at the next  
11 board of directors meeting.

12 Section 89. Appraisal of real estate at time of  
13 acquisition. Every association shall appraise each parcel of  
14 real estate at the time of acquisition thereof. The report  
15 of each appraisal shall be submitted in writing to the board  
16 of directors and shall be kept in the records of the  
17 association. The department may require the appraisal of  
18 real estate securing loans by an appraiser selected by the  
19 department. The association whose securities are appraised  
20 under this section shall pay the expense of the appraisal to  
21 the department upon demand. Money so received shall be paid  
22 into the general fund in the state treasury. Copies of  
23 appraisals shall be furnished to the association.

24 Section 90. Specific loss reserve -- determination of  
25 values by department. (1) The department may require each

1 association to establish and maintain a specific loss  
2 reserve for the amount by which the book value of any asset  
3 exceeds the department's appraisal of the asset.

4 (2) In determining the values of the security  
5 properties for a group of loans, the department may use its  
6 appraisal of each property or its estimate of the total  
7 value of these properties based upon its appraisal of a  
8 reasonable sample thereof. If any association contests the  
9 validity of the estimate based upon a sample, it may have an  
10 appraisal, at its own expense, by an appraiser approved by  
11 the department, of all the group from which the sample was  
12 drawn or of a larger sample of the group than was  
13 recommended by the department.

14 (3) If the department has directed an association to  
15 carry a specific loss reserve on its books, the amount  
16 designated for this purpose by the department cannot be  
17 reduced or changed in any manner without its written  
18 approval.

19 (4) The provisions of subsections (2) and (3) shall be  
20 effective on July 1, 1979, but shall not be applied  
21 retroactively.

22 Section 91. Reserve for uncollected interest. A  
23 reserve for uncollected interest shall be maintained  
24 equivalent to all interest which has been due for 90 days or  
25 more and which is carried as income on the books of the

1 association.

2 Section 92. Apportionment of earnings, payment of  
3 interest -- determination of percentage rate of declaration  
4 -- classes of savings accounts. (1) The apportionment of  
5 earnings or payment of interest by declaration of the board  
6 of directors shall be made semiannually on June 30 and  
7 December 31 of each year or quarterly on these dates plus  
8 March 31 and September 30 of each year.

9 (2) The percentage rate of the declaration shall be  
10 determined by the board of directors as it considers  
11 expedient for the safety and security of all savings  
12 depositors, but if the percentage rate is excessive, unjust,  
13 or inequitable, it is subject to disapproval of and  
14 reduction by the department. However, the association may  
15 seek review of any disapproval or reduction by the  
16 department in accordance with [section 8].

17 (3) No association may be required to pay or credit  
18 interest on accounts of \$10 or less which show no entries of  
19 debit or credit for a period of 2 years, except for  
20 accumulated interest credits.

21 (4) Except as otherwise provided in [this act],  
22 interest shall be declared on the participation value of  
23 each account at the beginning of the interest period, plus  
24 payments thereon made during the interest period, less  
25 amounts withdrawn, which for interest purposes shall be



1 deducted from the latest previous payments thereon, computed  
2 at the rate for the time invested, determined as provided in  
3 this section.

4 (5) The date of investment is the date of actual  
5 receipt by the association, except that the board of  
6 directors may fix a date, which shall not be later than the  
7 10th day of the month, for determining the date of  
8 investment on which interest is computed. A date later than  
9 the 10th may be set if it is permissible for federal  
10 associations. If permitted by federal regulations, as  
11 amended, the board of directors may permit investments to  
12 receive interest calculated from the date of actual receipt.

13 (6) In addition to the classes of savings accounts  
14 provided for in [this act], an association may, with the  
15 approval of its board of directors, authorize additional  
16 classes of savings accounts which will conform to those  
17 types or classes which have been established by the federal  
18 home loan bank board by regulation or which may hereafter be  
19 authorized by it.

20 Section 93. Restrictions on declaration of dividends.  
21 No board of directors of a savings and loan association  
22 shall knowingly declare to its stockholders a greater  
23 dividend than has actually been earned by the association  
24 after providing adequate reserves to meet any other  
25 contingent liabilities.

1 Section 94. Accounts of minors and married women. (1)  
2 Any savings and loan association and any federal savings and  
3 loan association operating in this state may issue savings  
4 accounts or investment certificates to minors, with the  
5 written consent of their parents, trustees, or guardians,  
6 and to married women, each in their own right.

7 (2) Any payment thereon or delivery thereof or of any  
8 rights thereunder to a minor of the age of 14 years or over  
9 or to a married woman or a receipt or acquittance signed by  
10 the minor and parent, trustee, or guardian or by the married  
11 woman who holds the savings account or investment  
12 certificate is a valid and sufficient release and discharge  
13 of the association for any payment or delivery.

14 Section 95. Purchase and withdrawal of accounts by  
15 administrators, executors, guardians, and trustees. (1) A  
16 savings account or investment certificate of any  
17 association, including a federal savings and loan  
18 association, may be purchased and held by any person as  
19 administrator, executor, guardian, or as trustee or other  
20 fiduciary in trust for a named beneficiary or beneficiaries.

21 (2) Any person holding a savings account as a  
22 fiduciary may make payments upon and withdraw, in whole or  
23 in part, the savings account or investment certificate.

24 (3) The withdrawal value of any savings account or  
25 investment certificate and interest thereon or other rights

1 relating thereto may be paid or delivered to the fiduciary,  
 2 and the payment or delivery to the fiduciary or a receipt or  
 3 acquittance signed by the fiduciary to whom any payment or  
 4 delivery of rights is made is a valid and sufficient release  
 5 and discharge of the association for the payment or delivery  
 6 made.

7 Section 96. Payment to beneficiary on death of trustee  
 8 -- payment as valid discharge of association. (1) Whenever a  
 9 person holding a savings account or investment certificate  
 10 as trustee or other fiduciary in trust for a named  
 11 beneficiary or beneficiaries dies and no written notice of  
 12 the revocation or termination of the trust relationship has  
 13 been given to the association or company, the withdrawal  
 14 value of the savings account or investment certificate and  
 15 interest thereon or other rights relating thereto may, at  
 16 the option of the association or company, be paid or  
 17 delivered, in whole or in part, to the named beneficiary or  
 18 beneficiaries of the trust.

19 (2) The payment or delivery to any beneficiary or  
 20 beneficiaries or a receipt or acquittance signed by the  
 21 beneficiary or beneficiaries for any payment or delivery  
 22 shall be a valid and sufficient release and discharge of any  
 23 association or company for the payment or delivery made.

24 Section 97. Required cash or securities to pay  
 25 withdrawals in excess of receipts and to meet accruing

1 expenses -- amounts required for liquidity purposes. (1)  
 2 Every association shall have on hand at all times in  
 3 available funds, bank deposits, United States government  
 4 bonds, certificates of insured savings and loan associations  
 5 not in excess of the insurable limitations, federal home  
 6 loan bank evidences of indebtedness, or time certificates of  
 7 insured federal and state banks or of any indebtedness of  
 8 any United States government instrumentality which is by  
 9 statute fully guaranteed, a sum not less than 5% of the  
 10 aggregate of savings accounts and investment certificates to  
 11 enable it to pay withdrawals in excess of receipts and to  
 12 meet accruing expenses. The department may prescribe from  
 13 time to time different amounts required for liquidity  
 14 purposes, but the amounts shall not be less than 4% or more  
 15 than 8%.

16 (2) A deposit in a bank or association under the  
 17 control or the possession of appropriate supervisory  
 18 authority shall not be considered as cash. Except for  
 19 deposits in a federal home loan bank, a time deposit  
 20 established hereafter, whether time deposit-open account or  
 21 deposit evidenced by a certificate of deposit, shall not be  
 22 considered as cash for such purposes unless:

- 23 (a) the member itself made the deposit in question;  
 24 (b) the deposit, together with all other time deposits  
 25 of the association in the same bank, does not exceed the

1 greater of 1/4 of 1% of the bank's total deposits as of the  
 2 bank's last-published statement of condition, or \$15,000;  
 3 and

4 (c) no consideration was received from a third party  
 5 in connection with the making of the deposit.

6 (3) An association shall not make or purchase any  
 7 loan, other than advances on the sole security of its  
 8 savings accounts, at any time when its liquidity drops below  
 9 the required level. For the purpose of this section, a loan  
 10 is considered to have been made as of the date the borrower  
 11 executed the security instrument and a loan is considered to  
 12 have been purchased as of the date of the payment therefor.

13 Section 98. Procedure when withdrawal requests exceed  
 14 current funds -- application of monthly receipts. (1)  
 15 Whenever an association has on file more withdrawal requests  
 16 than can be met in full from current funds, it shall apply  
 17 to the withdrawals one-half of the monthly receipts, after  
 18 first deducting the amount necessary to pay the actual and  
 19 reasonable expenses incurred in the operation of the  
 20 association and the protection of its assets and reserves  
 21 set up by it for interest on its savings accounts or  
 22 certificates.

23 (2) Should the one-half of the monthly receipts fail  
 24 to retire at least 5% of the aggregate withdrawal requests,  
 25 then such portion of the other one-half of the monthly

1 receipts shall be applied as is necessary to retire 5% of  
 2 the total amount on withdrawal order.

3 (3) For purposes of this section, "receipts" means all  
 4 money coming into the hands of the association except  
 5 borrowed money. Borrowed money shall not be considered  
 6 receipts for the payment of withdrawals, but all money  
 7 borrowed from the federal home loan bank or from any other  
 8 federal loan agency for the purpose of paying withdrawals  
 9 may be used for such purpose and shall not be considered as  
 10 receipts.

11 Section 99. Order of payment of withdrawals. (1)  
 12 Withdrawals shall be paid in the order of their filing, and  
 13 no loans or investments shall be made, except by permission  
 14 of the department, when any withdrawal request or order has  
 15 remained on file unpaid for a period of more than 30 days,  
 16 provided:

17 (a) any foreign or domestic association, company, or  
 18 corporation may, without the necessity of obtaining  
 19 permission of the department, make or purchase loans or  
 20 investments not exceeding the principal amount of money  
 21 borrowed by the association, company, or corporation from a  
 22 federal home loan bank or other federal loan agency; and

23 (b) any request or order which is not legally payable  
 24 for reasons other than the restrictions of this section  
 25 shall not be considered as on file.

1 (2) Whenever applications for withdrawals reach such  
 2 an amount that, in the opinion of the department, it would  
 3 be inexpedient to pay the applications in the order of their  
 4 filing, then, with the written permission of the department,  
 5 so much as may be directed by the department of the money  
 6 available to pay withdrawals may, each month, be prorated  
 7 upon the amounts of all applications for withdrawals on  
 8 file, irrespective of the order of filing.

9 Section 100. Conflict of laws when foreign association  
 10 doing business in Montana -- when foreign law prevails --  
 11 reports to department. (1) If any association, company, or  
 12 corporation organized or incorporated under the laws of any  
 13 governing body other than the state of Montana is doing  
 14 business in this state under the provisions of [this act]  
 15 and the laws of the other governing body conflict with any  
 16 of the provisions of [section 98 or section 99], the  
 17 provisions of the laws of the state of Montana shall prevail  
 18 as to each such conflict.

19 (2) Whenever any foreign organization follows a course  
 20 or performs any act which is forbidden to any domestic  
 21 organization under the terms of [section 98 or section 99],  
 22 it shall report to the department all of the facts relating  
 23 thereto.

24 Section 101. Duty of association to notify department  
 25 of inability to pay withdrawal request on file more than 60

1 days. Any foreign or domestic association, company, or  
 2 corporation or its secretary or manager shall immediately  
 3 notify the department of its inability to pay any withdrawal  
 4 request or order which has been on file for a period of more  
 5 than 60 days.

6 Section 102. Procedure to effect reorganization,  
 7 merger, or consolidation -- approval of plan by association  
 8 and department -- appeals -- fees. (1) An association may  
 9 reorganize, merge, or consolidate with another state or  
 10 federal association if the reorganization, merger, or  
 11 consolidation is based upon a plan which has been adopted by  
 12 the board of directors and approved at a regular or special  
 13 stockholders' meeting which has been called to consider the  
 14 action. The approval must rest on a favorable vote of a  
 15 majority of the voting power of the association as  
 16 established by its articles.

17 (2) Any plan for reorganization, merger, or  
 18 consolidation must be approved by the department, which  
 19 shall satisfy itself that the plan, if approved, would be  
 20 equitable for the stockholders of the affected association  
 21 or associations and would not impair the usefulness or  
 22 success of other properly conducted associations in the  
 23 community. In submitting an application for approval of any  
 24 such plan, each association proposing to reorganize, merge,  
 25 or consolidate shall provide a comprehensive review of its

1 present financial condition and a projected view of the  
2 financial condition of the reorganized, merged, or  
3 consolidated association.

4 (3) Unless the action is specifically authorized by or  
5 taken in conformity with [this act], no association may,  
6 directly or indirectly:

7 (a) reorganize, merge, or consolidate;

8 (b) assume liability to pay savings accounts or other  
9 liabilities of any financial institution or any other  
10 organization, person, or entity;

11 (c) transfer assets to any financial institution or  
12 any other organization, person, or entity in consideration  
13 of the transferee's assumption of liability for any portion  
14 of the transferor's savings accounts, deposits, or other  
15 liability;

16 (d) acquire the assets of any financial institution or  
17 any other organization, person, or entity.

18 (4) Any association aggrieved by any action or  
19 position taken by the department under this section may  
20 appeal the action or position in the manner provided by  
21 [section 8].

22 (5) Each application which is made under this section  
23 shall be accompanied by a fee payment of \$150. The  
24 responsibility for payment of the fee shall be shared  
25 equally by the associations participating in each proposed

1 plan.

2 Section 103. Authority of department to order  
3 discontinuance of unlawful, unsafe, or injurious practices  
4 of associations -- special meeting of directors concerning  
5 noncompliance. (1) If the department finds, as the result of  
6 any examination or from any report made to it or to any  
7 association doing business in this state or from any report  
8 made to any of its investors, that the association is  
9 violating any provision of its articles of incorporation,  
10 charter, or bylaws or any law of this state or is conducting  
11 its business in an unsafe or injurious manner, the  
12 department may by an order addressed to the association  
13 direct a discontinuance of the violations or unsafe or  
14 injurious practices and a conformity with all the  
15 requirements of law.

16 (2) If an association does not comply with the order,  
17 the department may order the corporate secretary to call a  
18 special directors meeting to consider the matter of  
19 noncompliance.

20 (3) The meeting shall be held no later than 60 days  
21 after issuance of the order to hold the meeting, unless  
22 otherwise restrained by court order or by the board. The  
23 business of the meeting shall be limited to the matter of  
24 noncompliance and remedies therefor, and the notice of the  
25 meeting shall set forth in detail the department's

1 discontinuance order and order to call a directors' meeting.

2 (4) Action taken at the meeting shall be binding upon  
3 the officers of the association.

4 Section 104. Appointment of conservator -- petition  
5 for confirmation of appointment. (1) The department may,  
6 with the prior approval of the board, appoint a conservator  
7 for the association if any of the following occur:

8 (a) the association does not comply with any order  
9 given pursuant to [section 103] within the time specified  
10 therein;

11 (b) it appears to the department that the association  
12 is in an unsafe condition or is conducting its business in  
13 an unsafe or injurious manner such as to render its further  
14 proceeding hazardous to the public or to any or all of its  
15 investors;

16 (c) the department finds that the association's assets  
17 are impaired to such an extent that, after deducting all  
18 liabilities other than to its investors, they do not equal  
19 or exceed the sum of the value of its outstanding savings  
20 accounts and investment certificates and the par value of  
21 its outstanding stock;

22 (d) the association refuses to submit its books,  
23 papers, and accounts to the inspection of the department or  
24 any of its examiners, deputies, or assistants;

25 (e) any officer of the association refuses to be

1 examined upon oath concerning the affairs of the  
2 association;

3 (f) it appears to the department that false reports  
4 have been filed with it.

5 (2) The conservator may be the director of the  
6 department, his deputy, or any person qualified for such  
7 appointment.

8 (3) Immediately upon appointment, the conservator  
9 shall petition the district court of the county in which the  
10 home office of the association is located for confirmation  
11 of his appointment. The court shall have exclusive  
12 jurisdiction to determine the issues and all related  
13 matters, and it shall give precedence to the conservatorship  
14 proceedings and expedite the proceedings in every way.

15 Section 105. Powers of conservator -- limitations --  
16 expenses -- compensation. (1) The conservator confirmed or  
17 appointed by the court has all the power expressed in the  
18 court order and the following:

19 (a) all the rights, powers, and privileges possessed  
20 by the directors, officers, and stockholders;

21 (b) the power to request the resignation of or remove  
22 any director, officer, or employee for cause and upon  
23 written notice, which shall show the department's approval  
24 of the action;

25 (c) the power to accept new savings accounts and

1 additions to existing accounts, which shall become  
 2 segregated accounts and amounts, if the department so orders  
 3 in writing, not subject to offset and not available for  
 4 liquidating any indebtedness of an association existing at  
 5 the time the conservator was appointed.

6 (2) The conservator may not:

7 (a) retain special counsel or other experts without  
 8 prior approval of the court;

9 (b) incur any expenses other than normal operating  
 10 expenses; or

11 (c) liquidate assets except in the normal course of  
 12 operations or for the preservation of existing asset values.

13 (3) All expenses of the association during the  
 14 conservatorship shall be paid by the association.

15 (4) The amount of compensation for the conservator  
 16 shall be determined by the court and paid by the  
 17 association. When either the director or his deputy has been  
 18 appointed conservator, the compensation shall be paid to the  
 19 state treasurer.

20 (5) During the conservatorship, debtors to the  
 21 association shall continue to make payments to the  
 22 association as may be required under the terms of their  
 23 respective contracts.

24 (6) Savings account depositors may, with the approval  
 25 of the conservator, withdraw all or any part of their

1 savings accounts under the provisions of [this act] or under  
 2 such rules as the department may prescribe.

3 (7) The conservator shall return the association to  
 4 the board of directors if the conditions complained of by  
 5 the department have been removed within 12 months of his  
 6 appointment. If no change has been effected within that  
 7 time, a receiver may be appointed by the department as  
 8 provided in [this act].

9 Section 106. Receiver -- appointment, powers and  
 10 authority, compensation. (1) If the department finds that  
 11 any association:

12 (a) is in an impaired condition;

13 (b) is engaging in practices which threaten to result  
 14 in an impaired condition; or

15 (c) is in violation of an order or injunction, as  
 16 provided in [section 104], which has become final in that  
 17 the time to appeal has expired without appeal or a final  
 18 order has been entered from which there can be no appeal,  
 19 the director may appoint a receiver for the association,  
 20 which may be the director, his deputy, or any other person,  
 21 and upon such appointment shall apply immediately to a court  
 22 of general jurisdiction in the county in which the home  
 23 office of the association is located for confirmation of the  
 24 appointment. The court shall have exclusive jurisdiction to  
 25 determine the issues and all related matters. The court

1 shall confirm the appointment if it finds that one or more  
 2 grounds exist, and a certified copy of the order of the  
 3 court confirming the appointment shall be evidence thereof.  
 4 In the case of an insured association, the appointment by  
 5 the director of a receiver under this section shall  
 6 constitute an official determination of a public authority  
 7 of this state pursuant to which a receiver is appointed for  
 8 the purpose of liquidation as contemplated by and within the  
 9 meaning of section 406 of the National Housing Act of 1934,  
 10 as amended, if, within 10 days after the date the  
 11 application of the director is filed, confirmation of the  
 12 appointment or denial of confirmation has not been issued by  
 13 the court. The receiver shall have all the powers and  
 14 authority of a conservator plus the power to liquidate and  
 15 shall have such other powers and authority as may be  
 16 expressed in the order of the court. If the director or his  
 17 deputy or examiner is appointed receiver, he shall receive  
 18 no additional compensation, but if another person is  
 19 appointed, then the compensation of the receiver, as  
 20 determined by the court, shall be paid from the assets of  
 21 the association.

22 (2) If the association is an institution insured by  
 23 the federal savings and loan insurance corporation, the  
 24 federal savings and loan insurance corporation shall be  
 25 tendered appointment as receiver or coreceiver. If it

1 accepts the appointment, it may, nevertheless, make loans on  
 2 the security of or purchase at public or private sale any  
 3 part or all of the assets of the association of which it is  
 4 receiver or coreceiver, provided the loan or purchase is  
 5 approved by the court.

6 (3) The procedure in the receivership action shall be  
 7 in all other respects in accordance with the practice in the  
 8 court, including all rights of appeal and review. The  
 9 directors, officers, and attorneys of an association in  
 10 office at the time of the initiation of any proceeding under  
 11 this section or under [section 104] are expressly authorized  
 12 to contest any such proceeding and shall be reimbursed for  
 13 reasonable expenses and attorney fees by the association or  
 14 from its assets. Any court having any such proceeding before  
 15 it shall allow and order paid reasonable expenses and  
 16 attorney fees for the directors, officers, and attorneys.

17 Section 107. Appeal from injunction, dismissal as stay  
 18 of judgment -- court's authority to enjoin department  
 19 pending appeal from dismissal. An appeal from a judgment  
 20 enjoining the department from further proceedings and  
 21 directing it to surrender the business, property, and assets  
 22 to the association does not operate as a stay of the  
 23 judgment unless the trial court in its discretion so orders.  
 24 If an appeal from the judgment is taken by the department,  
 25 no bond need be given. If the judgment dismisses the action,



1 an appeal therefrom does not operate as a stay of the  
 2 judgment but the court rendering the judgment may in its  
 3 discretion enjoin the department, pending the appeal, from  
 4 further proceedings and direct it, pending the appeal, to  
 5 surrender the business, property, and assets to the  
 6 association if a bond is given in an amount not less than  
 7 10% of the cash on hand or on deposit.

8 Section 108. Refusal of officers or directors to  
 9 comply with demands of department a misdemeanor. Whenever  
 10 the department demands possession of the property, business,  
 11 and assets of any association pursuant to [section 103]  
 12 through [section 115], the refusal of any officer, agent,  
 13 employee, or director of the association to comply with the  
 14 demand is a misdemeanor.

15 Section 109. Department entitled to call for sheriff's  
 16 assistance -- demand required -- sheriff's duty. If the  
 17 demand of the department for the possession of the property,  
 18 business, and assets is not complied with within 24 hours  
 19 after service of the demand, the department may call to its  
 20 assistance the sheriff of the county in which the principal  
 21 place of business of the association is located, by giving  
 22 the sheriff written demand. The sheriff shall enforce the  
 23 demands of the department.

24 Section 110. Schedule and delivery of property and  
 25 securities. When the department takes possession of the

1 property, business, and assets of any association, the  
 2 president and secretary of the association shall make a  
 3 schedule of all the property, assets, and collateral held by  
 4 it as security for loans and make an oath that such schedule  
 5 sets forth all the property, assets, and collateral. The  
 6 president and secretary shall deliver the schedule and the  
 7 possession of all property, assets, and collateral not  
 8 previously delivered to the department. The department may  
 9 at any time examine under oath any president, secretary,  
 10 officer, director, agent, or employee of the association to  
 11 determine whether or not all the property, assets, or  
 12 collateral have been transferred and delivered into his  
 13 possession.

14 Section 111. Department may issue subpoenas and  
 15 require attendance of parties for examination. The  
 16 department may issue subpoenas and require the attendance of  
 17 parties for examination.

18 Section 112. Custodian may be appointed by department  
 19 -- custodian's bond. When the department takes possession of  
 20 the business, property, and assets of an association, it may  
 21 appoint a custodian. The department may require a good and  
 22 sufficient bond from the custodian and place him in charge  
 23 as its representative.

24 Section 113. Collection of money due -- preservation  
 25 of assets. When the department takes possession of the

1 property, business, and assets of an association, it may  
 2 collect all money due the association and give receipt  
 3 therefor. The department may do such other acts as are  
 4 necessary or expedient to collect, conserve, or protect the  
 5 association's business, property, and assets.

6 Section 114. General authority of department when in  
 7 possession of association. If the department is in  
 8 possession of the business, property, and assets of an  
 9 association, whether or not it is liquidating the affairs of  
 10 the association, the department may:

11 (1) pay and discharge any secured claims against the  
 12 association. No secured claim may be paid in an amount  
 13 larger than the value of the security at the time of  
 14 payment.

15 (2) pay administrative or current expenses incurred  
 16 prior to the taking of possession which are necessary or  
 17 convenient to the orderly or economic liquidation or  
 18 preservation of the assets and pay all wages or salaries, in  
 19 amounts not exceeding such amounts as are normally paid to  
 20 officers and employees. No salary increases shall be  
 21 proposed or consented to by the department, conservator, or  
 22 receiver. The number of staff members which are required or  
 23 needed for the operation of the association shall be  
 24 determined by the department.

25 (3) disaffirm any executory contracts, including

1 leases, to which the association is a party and disaffirm  
 2 any partially executed contracts, including leases, to the  
 3 extent that they remain executory. The disaffirmance shall  
 4 be made within 6 months after obtaining knowledge of the  
 5 existence of the contract or lease.

6 Section 115. Claims for damages resulting from  
 7 disaffirmance of executory contract or lease. Claims for  
 8 damages resulting from the disaffirmance of an executory  
 9 contract or lease by the department may be filed and  
 10 allowed. No claim of a landlord for damages resulting from  
 11 the disaffirmance of an unexpired lease of real property or  
 12 under any covenant of a lease shall be allowed in an amount  
 13 exceeding the rent reserved by the lease, without  
 14 acceleration, for the year succeeding the date of the  
 15 surrender of the premises plus the amount of any unpaid  
 16 accrued rent, without acceleration. A claim must be filed  
 17 within 30 days of the date of such disaffirmance.

18 Section 116. Procedure upon taking possession of  
 19 insured association -- federal savings and loan insurance  
 20 corporation as liquidator or coliquidator. (1) The  
 21 department may, if it takes possession of any association  
 22 whose savings accounts are to any extent insured by the  
 23 federal savings and loan insurance corporation, tender to  
 24 the federal savings and loan insurance corporation the  
 25 appointment as statutory liquidator of the association. If

1 it does not make a tender as sole statutory liquidator, it  
 2 shall tender to the federal savings and loan insurance  
 3 corporation the appointment as statutory coliquidator to act  
 4 jointly with the department. The coliquidatorship shall be  
 5 for not more than 1 year from the date of tender, at the  
 6 expiration of which time the department shall become the  
 7 sole liquidator except as otherwise provided by this  
 8 section. The department shall tender to the federal savings  
 9 and loan insurance corporation the appointment as sole  
 10 statutory liquidator of the association whenever the  
 11 corporation has become subrogated to the rights of 90% of  
 12 the liability of the association on savings accounts. If the  
 13 federal savings and loan insurance corporation becomes  
 14 subrogated as to all the savings accounts in the  
 15 association, it may then exercise all the powers and  
 16 privileges conferred upon it by [this act] without court  
 17 approval.

18 (2) If the federal savings and loan insurance  
 19 corporation accepts the appointment as sole liquidator, it  
 20 shall possess all the powers and privileges of the  
 21 department as statutory liquidator of a possessed savings  
 22 and loan association and shall be subject to all duties of  
 23 the department as sole liquidator, except insofar as the  
 24 powers and privileges or duties are in conflict with federal  
 25 laws and except as otherwise provided in [this act], unless

1 the association resumes business pursuant to the provisions  
 2 of [this act]. If the federal savings and loan insurance  
 3 corporation accepts the appointment as coliquidator, it  
 4 shall possess the powers and privileges jointly with the  
 5 department and shall be subject to the duties jointly with  
 6 the department.

7 (3) If the federal savings and loan insurance  
 8 corporation accepts the appointment as coliquidator or  
 9 liquidator, it shall file its acceptance with the director  
 10 and the clerk of the district court. The corporation may act  
 11 without bond. Upon filing its acceptance of appointment as  
 12 sole liquidator, the possession of and title to all the  
 13 assets, business, and property of the association shall vest  
 14 in the federal savings and loan insurance corporation  
 15 without the execution of any conveyance, assignment,  
 16 transfer, or endorsement. Upon filing its acceptance of  
 17 appointment as coliquidator, the possession and title shall  
 18 be vested in the department and the corporation jointly. If  
 19 the federal savings and loan insurance corporation does not  
 20 qualify as sole liquidator at or before the time provided  
 21 for the expiration of the coliquidatorship, the corporation  
 22 shall be wholly divested of the joint title and possession  
 23 and the sole title and possession shall vest in the  
 24 department. The vesting of title and possession of the  
 25 property of the association does not render the property

1 subject to any claims by the federal corporation except  
 2 those which are encumbered by it with respect to the  
 3 association and its property. Whether or not it serves as  
 4 liquidator or coliquidator, the corporation may make loans  
 5 on the security of or may purchase with the approval of the  
 6 court, except as otherwise provided in [this act], all or  
 7 any part of the assets of any association the savings  
 8 accounts of which are to any extent insured by it. In the  
 9 event of a purchase, the corporation shall pay a reasonable  
 10 price.

11 (4) Whether or not the federal savings and loan  
 12 insurance corporation serves as liquidator, whenever it pays  
 13 or makes available for payment the savings accounts of any  
 14 association in liquidation which are insured by it, it shall  
 15 be subrogated upon the surrender and transfer to it of the  
 16 savings accounts. The surrender and transfer do not affect  
 17 any right which the transferor has in any savings accounts  
 18 which are not paid or made available for payment or any  
 19 right to participate in the distribution of the net proceeds  
 20 remaining from the disposition of the assets of the  
 21 association. The rights of the investors and creditors of  
 22 the association shall be determined in accordance with the  
 23 applicable provisions of [this act].

24 Section 117. Delivery of remaining assets to permanent  
 25 stockholders -- procedure. (1) Whenever, in the case of any

1 association which has issued permanent stock, the department  
 2 or the federal savings and loan insurance corporation has  
 3 fully liquidated all claims other than claims of the  
 4 stockholders and has made due provision for all known or  
 5 unclaimed liabilities, excepting claims of permanent  
 6 stockholders, and has paid all expenses of liquidation, the  
 7 department shall call a meeting of the stockholders of the  
 8 savings and loan association.

9 (2) Notice of the meeting shall be given by:

10 (a) five publications in a 30-day period in one or  
 11 more newspapers published in the county in which the  
 12 principal office of the association is located; and

13 (b) letter to each stockholder mailed to his  
 14 last-known address.

15 (3) At the meeting, the department shall deliver to  
 16 the stockholders all the property and effects of the  
 17 association remaining in its possession except its records,  
 18 which shall be retained by it as part of the records of the  
 19 office. Upon transfer and delivery, the department shall be  
 20 discharged from any further liability to the association or  
 21 its creditors, and thereafter the association shall be in  
 22 the same position as though it had never been authorized to  
 23 transact a savings and loan business.

24 Section 118. Permission for conversion of association  
 25 into federal association. Any savings and loan association

1 eligible to become a member of the federal home loan bank  
 2 may convert itself into a federal savings and loan  
 3 association pursuant to the Home Owners' Loan Act of 1933,  
 4 12 U.S.C. 1461 through 1468, with the same effect as though  
 5 originally incorporated under that act, and the proceedings  
 6 to effect the conversion shall be as outlined in [section  
 7 119] through [section 122].

8 Section 119. Notice of stockholders' meeting --  
 9 service and proof of service. (1) A meeting of the  
 10 stockholders shall be held upon not less than 10 days'  
 11 written notice to each stockholder, served either personally  
 12 or by mail, postage prepaid, directed to him at his  
 13 last-known post-office address and containing a statement of  
 14 the time, place, and purpose for which the meeting is  
 15 called.

16 (2) Proof by affidavit of due service of the notice  
 17 shall be filed in the office of the corporation before or at  
 18 the time of the meeting.

19 Section 120. Majority approval of resolution at  
 20 stockholders' meeting required. (1) At a meeting of the  
 21 stockholders held as provided in [section 119], the  
 22 stockholders may, by the affirmative vote of the majority of  
 23 the stockholders present, in person or by proxy, declare by  
 24 resolution the determination to convert the state company,  
 25 association, or corporation into a federal savings and loan

1 association.

2 (2) A copy of the minutes of the meeting, verified by  
 3 the affidavit of the president or vice-president and the  
 4 secretary of the meeting, shall be filed in the office of  
 5 the department within 10 days after the date of the meeting.  
 6 The sworn copy of the proceedings of the meeting, when so  
 7 filed, is presumptive evidence of the holding and the action  
 8 of the meeting.

9 Section 121. When association permitted to take steps  
 10 necessary for conversion to federal association -- time for  
 11 filing charter -- fee -- cessation as domestic association.

12 (1) After the holding of the meeting of stockholders, the  
 13 state company, association, or corporation shall take such  
 14 action, in the manner prescribed or authorized by the laws  
 15 of the United States or the rules and regulations  
 16 promulgated pursuant thereto, as shall make it a federal  
 17 savings and loan association and shall file in the office of  
 18 the department a copy of the charter of authorization issued  
 19 to the association by the federal home loan bank board or a  
 20 certificate showing the organization of the association as  
 21 a federal savings and loan association, certified by the  
 22 federal home loan bank board. Upon filing with the  
 23 department, the association ceases to be a state savings and  
 24 loan association but retains all rights, privileges, and  
 25 exemptions of a domestic association.

1 (2) A fee of \$20 shall accompany the copy of the  
2 charter of authorization.

3 (3) Federal associations so converted and their  
4 members are subject to the same form of taxation and on the  
5 same basis as state associations and their stockholders.

6 Section 122. When state supervision ceases -- when  
7 property and assets vest in association under new name and  
8 style -- enjoyment of property by converted association. (1)  
9 At the time when the conversion becomes effective, the  
10 company, association, or corporation shall cease to be  
11 supervised by this state but shall continue as a body  
12 corporate converted pursuant to the provisions of the Home  
13 Owners' Loan Act of 1933 and subject to examination and  
14 regulation pursuant to that act.

15 (2) All the property of the state company,  
16 association, or corporation, including all its right, title,  
17 and interest in and to all property of whatever kind,  
18 whether real, personal, or mixed, and things in action and  
19 every right, privilege, interest, and asset of any  
20 conceivable value or benefit then existing, belonging, or  
21 pertaining to it or which would inure to it shall  
22 immediately by operation of law and without any conveyance  
23 or transfer and without any further act or deed be vested in  
24 and become the property of the federal savings and loan  
25 association. The federal savings and loan association shall

1 have, hold, and enjoy the same in its own right as fully and  
2 to the same extent as it was possessed, held, and enjoyed by  
3 the state company, association, or corporation.

4 (3) The federal savings and loan association as of the  
5 time of the taking effect of the conversion shall succeed to  
6 all the rights, obligations, and relations of the state  
7 company, association, or corporation.

8 Section 123. Permission for conversion of a state  
9 mutual association or a federal association to state stock  
10 association -- votes necessary. Any state mutual association  
11 or federal association may convert itself into a state stock  
12 association under [this act] upon a vote of 51% or more of  
13 the members of the state mutual or federal association cast  
14 at any regular or special meeting called to consider the  
15 action.

16 Section 124. Election of directors after conversion --  
17 time directors to hold office. At the meeting, the members  
18 shall also vote upon the directors who shall be the  
19 directors of the savings and loan association after  
20 conversion takes effect, to hold office until the next  
21 annual meeting and until their successors are elected and  
22 qualified.

23 Section 125. Verified minutes of stockholders' meeting  
24 to be filed. Copies of the minutes of the proceedings of the  
25 stockholders' meeting, verified by the affidavit of the

1 president or vice-president and the secretary or an  
2 assistant secretary, shall be filed in the office of the  
3 department and, in duplicate, with the federal home loan  
4 bank of which the association is a member, within 10 days  
5 after the meeting.

6 Section 126. Minutes presumptive evidence of action  
7 taken. The verified copies of the minutes of the meeting,  
8 when filed as required by [section 125], shall be  
9 presumptive evidence of the holding and action of the  
10 meeting.

11 Section 127. When mutual or federal association may  
12 become domestic stock association — proceedings by  
13 directors — requirements as to minimum amounts of capital.

14 (1) After the meeting, the mutual or federal association  
15 shall take such action in the manner prescribed and  
16 authorized by [this act] as shall make it a stock savings  
17 and loan association of this state, and the directors  
18 elected at the meeting shall file such documents and follow  
19 such procedures as are required by [this act] in the case of  
20 the original incorporation of a savings and loan  
21 association.

22 (2) A savings and loan association incorporated by  
23 conversion from a federal savings and loan association shall  
24 not be required to comply with any of the provisions of law  
25 or any rule adopted by the department relating to the

1 minimum amounts of capital required to be subscribed in  
2 connection with the original incorporation of a savings and  
3 loan association under [this act].

4 Section 128. Statement of conversion in articles. The  
5 directors may, if they so desire, insert in the articles of  
6 incorporation the following statement: "This association  
7 (company or corporation) is incorporated by conversion from  
8 a federal savings and loan association."

9 Section 129. Articles to be filed with federal home  
10 loan bank. Within 10 days after the filing of the articles  
11 of incorporation with the secretary of state, there shall be  
12 filed with the federal home loan bank of which the  
13 association is a member two copies of the articles of  
14 incorporation, certified by the secretary of state.

15 Section 130. Cessation as federal association —  
16 vesting of property under new name. Upon the filing of the  
17 articles of incorporation with the secretary of state, the  
18 association ceases to be a federal savings and loan  
19 association and thereafter is a savings and loan  
20 association. All of the property of the association,  
21 including all of its right, title, and interest in and to  
22 all property of every kind and character, whether real,  
23 personal, or mixed, immediately by operation of law, without  
24 any conveyance or transfer and without any further act or  
25 deed, vests in the association under its new name and style

1 as a savings and loan association and under its new  
2 jurisdiction.

3 Section 131. Transfer of property rights --  
4 association as continuation of previous federal association.  
5 The savings and loan association shall have, hold, and enjoy  
6 the property mentioned in [section 130] in its own right as  
7 fully and to the same extent as the property was possessed,  
8 held, and enjoyed by it as a federal savings and loan  
9 association; and the savings and loan association continues  
10 to be responsible for all of the obligations of the federal  
11 savings and loan association to the same extent as though  
12 the conversion had not taken place. It is expressly declared  
13 that the savings and loan association is merely a  
14 continuation of the federal savings and loan association  
15 under a new name, a new jurisdiction, and such revision of  
16 its corporate structure as may be considered necessary for  
17 its proper operation under the new jurisdiction.

18 Section 132. Acts permitted executors, administrators,  
19 and fiduciaries without obtaining court approval. Every  
20 executor, administrator, trustee, guardian, receiver,  
21 fiduciary, public corporation, political subdivision, public  
22 instrumentality, charitable, educational, and eleemosynary  
23 institution, bank, savings bank, trust company, financial  
24 institution, insurance company, or cemetery association,  
25 without the necessity of obtaining court approval, may:

1 (1) vote in person or by proxy in favor of converting  
2 a federal savings and loan association into a savings and  
3 loan association or may approve the determination to  
4 convert;

5 (2) exchange any shares, share accounts, or other  
6 rights or claims for securities issued by the savings and  
7 loan association and may continue to hold as a legal  
8 investænt any securities so received.

9 Section 133. Penalty for making false statement  
10 concerning financial condition of savings and loan  
11 association. Any person who knowingly makes, utters,  
12 circulates, or transmits to another or others any statement  
13 untrue in fact, derogatory to the financial condition of any  
14 association doing business in this state, with intent to  
15 injure the association, or who counsels, aids, procures, or  
16 induces another to originate, make, utter, transmit, or  
17 circulate any such statement or rumor with like intent is  
18 guilty of a misdemeanor.

19 Section 134. Penalties for violation of chapter --  
20 fraudulent misrepresentation by association of contract or  
21 securities. (1) Any association which violates any  
22 provisions of [this act] or fraudulently misrepresents the  
23 terms of any contract or of any securities and thereby  
24 secures a sale therefor shall be punished by a fine of not  
25 exceeding \$1,000 and forfeiture and revocation of all



1 licenses issued to it under the provisions of [this act].

2 (2) Any person who violates any provision of [this  
3 act] or sells any securities as the result of any fraudulent  
4 misrepresentation is guilty of a misdemeanor, and the  
5 license issued to him shall be forfeited and revoked.

6 Section 135. Sale of securities without license and  
7 payment of fees unlawful — penalty. Any person, firm,  
8 partnership, or corporation doing business in this state, as  
9 described in [section 23], selling or offering for sale  
10 within this state any securities of any company,  
11 association, or corporation which has not received the  
12 license provided for in [section 24 and section 49] or who  
13 has not himself secured the license provided for in [section  
14 51] or who has not paid the fees and obtained the license as  
15 provided in [section 13] is guilty of a misdemeanor for each  
16 such violation.

17 Section 136. Effect of revocation of license. The  
18 revocation of any license issued under any of the provisions  
19 of [this act] shall, from the date of such revocation, place  
20 the association to whom it was issued in the same legal  
21 status and subject to the same prohibitions and penalties as  
22 one to whom no license has been issued.

23 Section 137. Continuation of existing associations.  
24 Building and loan associations existing and doing business  
25 in this state on [the effective date of this act] shall

1 continue to be recognized as lawfully organized mutual  
2 associations and shall continue to be subject to 32-2-101  
3 through 32-2-503.

4 Section 138. Effective date. This act is effective on  
5 its passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 133-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 19 79, there is hereby submitted a Fiscal Note for HB 78 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

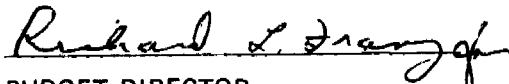
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 78 is an act providing for the incorporation, management, operation, and regulation of stock savings and loan associations; prescribing the powers, duties, and limitations of such associations; providing for the continuation of existing mutual savings and loan associations; and providing an immediate effective date.

ASSUMPTIONS:

H.B. 78 has no immediate fiscal impact. It would result in additional department workload only if several new savings and loan associations were chartered under this new law, or if several presently Federal associations converted to state chartered stock companies. The organization of a new S & L, or the conversion of a federal S & L to a state charter, is a long process that would very likely not be completed before the end of the 1979-1981 biennium.

FISCAL IMPACT: None

  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/31/79