

1 Senate BILL NO. 80
2 INTRODUCED BY Maguire

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE
5 DEVELOPMENT CORPORATION ACT TO ALLOW INDIVIDUALS TO PURCHASE
6 STOCK IN A DEVELOPMENT CORPORATION AND TO REMOVE THE
7 AUTHORITY OF CORPORATION MEMBERS TO TAKE PART IN GOVERNING
8 THE CORPORATION; AND AMENDING SECTIONS 32-4-205, 32-4-206,
9 32-4-208, AND 32-4-301, MCA."

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

12 Section 1. Section 32-4-205, MCA, is amended to read:

13 "32-4-205. Amendment of articles of incorporation. (1)
14 The articles of incorporation may be amended by ~~the-votes~~
15 ~~vote~~ of the stockholders ~~and-the-members~~ of the corporation,
16 ~~voting-separately-by--classes~~; and such amendments shall
17 require approval by the affirmative vote of two-thirds of
18 ~~the-votes-to-which~~ the stockholders ~~shall--be--entitled--and~~
19 ~~two-thirds--of--the--votes--to--which--the--members--shall-be~~
20 entitled, provided:

21 (a) that no amendment which is inconsistent with the
22 general purposes expressed herein or which eliminates or
23 curtails the obligation of the corporation to make reports
24 as provided in 32-4-306 shall be made without amendment of
25 this chapter; and

1 (b) that no amendment of the articles of incorporation
2 which increases the obligation of a member to make loans to
3 the corporation; makes any change in the principal amount,
4 interest rate, maturity date, or in the security or credit
5 position of any outstanding loan of a member to the
6 corporation; or affects a member's right to withdraw from
7 membership as provided in 32-4-303; ~~or-affects-a-member's~~
8 ~~voting-rights-as-provided-in-32-4-303~~ shall be made without
9 the consent of each member affected by such amendment.

10 (2) Within 30 days after any meeting at which
11 amendment of the articles of incorporation has been adopted,
12 articles of amendment signed and sworn to by the president,
13 treasurer, and a majority of the directors, setting forth
14 such amendment and the due adoption thereof, shall so far as
15 consistent with this chapter be submitted, as prescribed in
16 Title 35, to the secretary of state who shall examine them.
17 If he finds that they conform to the requirements of this
18 chapter, he shall so certify and endorse his approval
19 thereon. Thereupon, the amended articles of incorporation
20 shall be filed in the office of the secretary of state, and
21 no such amendment shall take effect until such amended
22 articles of incorporation shall have been filed as
23 aforesaid."

24 Section 2. Section 32-4-206, MCA, is amended to read:
25 "32-4-206. Board of directors. (1) The business and



1 affairs of the corporation shall be managed and conducted by
2 a board of directors, a president and treasurer, and such
3 other officers and such agents as the corporation by its
4 bylaws shall authorize.

5 (2) The board of directors shall consist of such
6 number, not less than nine, as shall be determined in the
7 first instance by the incorporators and thereafter annually
8 by ~~the members and~~ the stockholders of the corporation.

9 (3) The directors need not be stockholders ~~or members~~
10 in the corporation.

11 (4) The board of directors may exercise all the powers
12 of the corporation except such as are conferred by law or by
13 the bylaws of the corporation upon the stockholders ~~or~~
14 ~~members~~ and shall choose and appoint all the agents and
15 officers of the corporation and fill all vacancies in the
16 office of director.

17 (5) The board of directors shall be elected in the
18 first instance by the incorporators and thereafter at each
19 annual meeting of the corporation or, if no annual meeting
20 shall be held in any year at the time fixed by the bylaws,
21 at a special meeting held in lieu of the annual meeting. At
22 each annual meeting or at each special meeting held in lieu
23 of the annual meeting, the stockholders shall elect the
24 directors. The directors shall hold office until the next
25 annual meeting of the corporation or special meeting held in

1 lieu of the annual meeting after their election and until
2 their successors are elected and qualified, unless sooner
3 removed in accordance with the provisions of the bylaws.

4 (6) Directors and officers shall not be responsible
5 for losses unless the same shall have been occasioned by the
6 willful misconduct of such directors and officers."

7 Section 3. Section 32-4-208, MCA, is amended to read:

8 "32-4-208. Stock ownership and limitations.
9 Notwithstanding any rule at common law or any provision of
10 any general or special law or any provision in their
11 respective charters, agreements of association, articles of
12 organization, or trust indentures:

13 (1) all persons, domestic corporations organized for
14 the purpose of carrying on business within this state,
15 including without implied limitation any public utility
16 companies and insurance and casualty companies and foreign
17 corporations licensed to do business in the state, and ~~all~~
18 trusts are hereby authorized to acquire, purchase, hold,
19 sell, assign, transfer, mortgage, pledge, or otherwise
20 dispose of any bonds, securities, or other evidences of
21 indebtedness created by, or the shares of the capital stock
22 of, the corporation and, while owners of said stock, to
23 exercise all the rights, powers, and privileges of
24 ownership, including the right to vote thereon, all without
25 the approval of any regulatory authority of the state;

1 (2) all financial institutions are hereby authorized
2 to become members of the corporation by making loans to the
3 corporation as provided herein;

4 (3) a financial institution which does not become a
5 member of the corporation shall not be permitted to acquire
6 any share of the capital stock of the corporation;

7 (4) each financial institution which becomes a member
8 of the corporation is hereby authorized to acquire,
9 purchase, hold, sell, assign, transfer, mortgage, pledge, or
10 otherwise dispose of any bonds, securities, or other
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12 capital stock of, the corporation and, while owners of said
13 stock, to exercise all the rights, powers, and privileges of
14 ownership, including the right to vote thereon, all without
15 the approval of any regulatory authority of the state,
16 ~~provided, that the amount of the capital stock of the~~
17 ~~corporation which may be acquired by any member pursuant to~~
18 ~~the authority granted herein shall not exceed 10% of the~~
19 ~~loan limit of such member. The amount of capital stock of~~
20 ~~the corporation which any member is authorized to acquire~~
21 ~~pursuant to the authority granted herein is in addition to~~
22 ~~the amount of capital stock in corporations which such~~
23 ~~member may otherwise be authorized to acquire."~~

24 Section 4. Section 32-4-301, MCA, is amended to read:

25 "32-4-301. Powers of stockholders and members. (1) The

1 stockholders ~~and the members~~ of the corporation shall have
2 the following powers of the corporation:

3 (a) to determine the number of and elect directors as
4 provided in 32-4-206;

5 (b) to make, amend, and repeal bylaws;

6 (c) to amend the articles of incorporation as provided
7 in 32-4-205;

8 (d) to exercise such other of the powers of the
9 corporation as may be conferred on the stockholders ~~and the~~
10 ~~members~~ by the bylaws.

11 (2) As to all matters requiring action by the
12 stockholders ~~and the members~~ of the corporation, ~~said~~
13 ~~stockholders and said members shall vote separately thereon~~
14 ~~by classes;~~ and except as otherwise herein provided, such
15 matters shall require the affirmative vote of a majority of
16 the votes to which the stockholders present or represented
17 at the meeting shall be entitled ~~and the affirmative vote of~~
18 ~~a majority of the votes to which the members present or~~
19 ~~represented at the meeting shall be entitled.~~

20 (3) Each stockholder shall have one vote, in person or
21 by proxy, for each share of capital stock held by him ~~and~~
22 ~~each member shall have one vote, in person or by proxy,~~
23 ~~except that any member having a loan limit of more than~~
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2 ~~outstanding--on--loans-to-the-corporation-at-any-one-time-as~~
3 ~~determined-under-32-4-302(b)."~~

4 NEW SECTION. Section 5. Extension of authority. Any
5 existing authority of the department of commerce to make
6 rules on the subject of the provisions of this act is
7 extended to the provisions of this act.

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APPROVED BY COMM. ON BUSINESS & INDUSTRY

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18 ~~the votes to which~~ the stockholders shall ~~be entitled~~ ~~and~~
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17 If he finds that they conform to the requirements of this
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 17 corporations licensed to do business in the state, and ~~all~~
 18 trusts are hereby authorized to acquire, purchase, hold,
 19 sell, assign, transfer, mortgage, pledge, or otherwise
 20 dispose of any bonds, securities, or other evidences of
 21 indebtedness created by, or the shares of the capital stock
 22 of, the corporation and, while owners of said stock, to
 23 exercise all the rights, powers, and privileges of
 24 ownership, including the right to vote thereon, all without
 25 the approval of any regulatory authority of the state;

1 (2) all financial institutions are hereby authorized
2 to become members of the corporation by making loans to the
3 corporation as provided herein;

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5 member of the corporation shall not be permitted to acquire
6 any share of the capital stock of the corporation;

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2 the following powers of the corporation:

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4 provided in 32-4-206;

5 (b) to make, amend, and repeal bylaws;

6 (c) to amend the articles of incorporation as provided
7 in 32-4-205;

8 (d) to exercise such other of the powers of the
9 corporation as may be conferred on the stockholders ~~and the~~
10 ~~members~~ by the bylaws.

11 (2) As to all matters requiring action by the
12 stockholders ~~and the members~~ of the corporation, ~~said~~
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15 matters shall require the affirmative vote of a majority of
16 the votes to which the stockholders present or represented
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20 (3) Each stockholder shall have one vote, in person or
21 by proxy, for each share of capital stock held by him, ~~and~~
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5 existing authority of the department of commerce to make
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 13 treasurer, and a majority of the directors, setting forth
 14 such amendment and the due adoption thereof, shall so far as
 15 consistent with this chapter be submitted, as prescribed in
 16 Title 35, to the secretary of state who shall examine them.
 17 If he finds that they conform to the requirements of this
 18 chapter, he shall so certify and endorse his approval
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 20 shall be filed in the office of the secretary of state, and
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 21 at a special meeting held in lieu of the annual meeting. At
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 23 of the annual meeting, the stockholders shall elect the
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-End-

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2 INTRODUCED BY MAZUREK

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 22 each annual meeting or at each special meeting held in lieu
 23 of the annual meeting, the stockholders shall elect the
 24 directors. The directors shall hold office until the next
 25 annual meeting of the corporation or special meeting held in

1 lieu of the annual meeting after their election and until
 2 their successors are elected and qualified, unless sooner
 3 removed in accordance with the provisions of the bylaws.

4 (6) Directors and officers shall not be responsible
 5 for losses unless the same shall have been occasioned by the
 6 willful misconduct of such directors and officers."

7 Section 3. Section 32-4-208, MCA, is amended to read:
 8 "32-4-208. Stock ownership and limitations.
 9 Notwithstanding any rule at common law or any provision of
 10 any general or special law or any provision in their
 11 respective charters, agreements of association, articles of
 12 organization, or trust indentures:

13 (1) all persons, domestic corporations organized for
 14 the purpose of carrying on business within this state,
 15 including without implied limitation any public utility
 16 companies and insurance and casualty companies and foreign
 17 corporations licensed to do business in the state, and ~~all~~
 18 trusts are hereby authorized to acquire, purchase, hold,
 19 sell, assign, transfer, mortgage, pledge, or otherwise
 20 dispose of any bonds, securities, or other evidences of
 21 indebtedness created by, or the shares of the capital stock
 22 of, the corporation and, while owners of said stock, to
 23 exercise all the rights, powers, and privileges of
 24 ownership, including the right to vote thereon, all without
 25 the approval of any regulatory authority of the state;

1 (2) all financial institutions are hereby authorized
2 to become members of the corporation by making loans to the
3 corporation as provided herein;

4 (3) a financial institution which does not become a
5 member of the corporation shall not be permitted to acquire
6 any share of the capital stock of the corporation;

7 (4) each financial institution which becomes a member
8 of the corporation is hereby authorized to acquire,
9 purchase, hold, sell, assign, transfer, mortgage, pledge, or
10 otherwise dispose of any bonds, securities, or other
11 evidences of indebtedness created by, or the shares of the
12 capital stock of, the corporation and, while owners of said
13 stock, to exercise all the rights, powers, and privileges of
14 ownership, including the right to vote thereon, all without
15 the approval of any regulatory authority of the state;
16 ~~provided, that the amount of the capital stock of the~~
17 ~~corporation which may be acquired by any member pursuant to~~
18 ~~the authority granted herein shall not exceed 10% of the~~
19 ~~loan limit of such member. The amount of capital stock of~~
20 ~~the corporation which any member is authorized to acquire~~
21 ~~pursuant to the authority granted herein is in addition to~~
22 ~~the amount of capital stock in corporations which such~~
23 ~~member may otherwise be authorized to acquire."~~

24 Section 4. Section 32-4-301, MCA, is amended to read:

25 "32-4-301. Powers of stockholders and members. (1) The

1 stockholders ~~and the members~~ of the corporation shall have
2 the following powers of the corporation:

3 (a) to determine the number of and elect directors as
4 provided in 32-4-206;

5 (b) to make, amend, and repeal bylaws;

6 (c) to amend the articles of incorporation as provided
7 in 32-4-205;

8 (d) to exercise such other of the powers of the
9 corporation as may be conferred on the stockholders ~~and the~~
10 ~~members~~ by the bylaws.

11 (2) As to all matters requiring action by the
12 stockholders ~~and the members~~ of the corporation, ~~said~~
13 ~~stockholders and said members shall vote separately thereon~~
14 ~~by classes~~, and except as otherwise herein provided, such
15 matters shall require the affirmative vote of a majority of
16 the votes to which the stockholders present or represented
17 at the meeting shall be entitled ~~and the affirmative vote of~~
18 ~~a majority of the votes to which the members present or~~
19 ~~represented at the meeting shall be entitled.~~

20 (3) Each stockholder shall have one vote, in person or
21 by proxy, for each share of capital stock held by him ~~and~~
22 ~~each member shall have one vote~~, ~~in person or by proxy~~,
23 ~~except that any member having a loan limit of more than~~
24 ~~\$1,000 shall have one additional vote~~, ~~in person or by~~
25 ~~proxy~~, ~~regardless of the number of shares owned~~, ~~for each~~

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1 ~~additional-\$1,000-which-such-member-is--authorized--to--have~~
2 ~~outstanding--on--loans-to-the-corporation-at-any-one-time-as~~
3 ~~determined-under-32-4-302(3)(b)."~~

4 NEW SECTION. Section 5. Extension of authority. Any
5 existing authority of the department of commerce to make
6 rules on the subject of the provisions of this act is
7 extended to the provisions of this act.

-End-