

SENATE BILL 335

Introduced by Thayer, et al.

2/03	Introduced
2/03	Referred to Business & Industry
2/09	Hearing
	Died in Committee

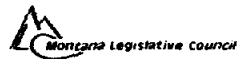
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INTRODUCED BY Sen. [Signature] BILL NO. 335
Rep. [Signature]

A BILL FOR AN ACT ENTITLED: "THE BUILDING AND LOAN ASSOCIATION ACQUISITION ACT; REGULATING ACQUISITIONS OF MONTANA BUILDING AND LOAN ASSOCIATIONS AND BUILDING AND LOAN ASSOCIATION HOLDING COMPANIES BY OUT-OF-STATE BUILDING AND LOAN ASSOCIATIONS AND BUILDING AND LOAN ASSOCIATION HOLDING COMPANIES; PROHIBITING CERTAIN ACQUISITIONS; REPEALING SECTION 32-2-271, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 6] grants to the department of commerce rulemaking authority to establish certain fees and to require an applicant to furnish certain information. It is the intent of the legislature that any rule adopted under the provisions of [this act] conform with the laws of Montana and the rules of the department regarding those subjects. The legislature further intends that any fee established under [this act] is no greater than is necessary to recover the actual costs incurred by the department and also that the department not request information beyond that which is necessary to determine the soundness of the financial



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institutions involved in the transactions and the management abilities and integrity of the officers and directors of the institutions.

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

NEW SECTION. **Section 1.** Short title. [This act] may be cited as the "Building and Loan Association Acquisition Act".

NEW SECTION. **Section 2.** Purpose. The policy of the state of Montana is to allow acquisitions between Montana building and loan associations or Montana building and loan association holding companies and out-of-state building and loan associations or out-of-state building and loan association holding companies under the provisions of [this act].

NEW SECTION. **Section 3.** Definitions. As used in [this act]:

(1) "Applicant" means an out-of-state building and loan association or an out-of-state building and loan association holding company that has submitted an application under [section 5].

(2) "Building and loan association holding company" means a person, other than an individual, that has or acquires control over any building and loan association, savings and loan association, or savings bank.

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1 (3) "Control" means directly or indirectly:

2 (a) owning, controlling, or having the power to vote
3 25% or more of any class of voting securities of a building
4 and loan association or building and loan association
5 holding company;

6 (b) controlling the election of a majority of the
7 directors or trustees of a building and loan association or
8 building and loan association holding company; or

9 (c) exercising a controlling influence over the
10 management or policies of a building and loan association or
11 building and loan association holding company.

12 (4) "Montana building and loan association" means a
13 building and loan association whose operations are
14 principally conducted in Montana.

15 (5) "Montana building and loan association holding
16 company" means a building and loan association holding
17 company whose principal place of business is in Montana and
18 whose operations are principally conducted in this state.

19 (6) "Out-of-state building and loan association" means
20 a building and loan association whose operations are
21 principally conducted outside Montana.

22 (7) "Out-of-state building and loan association
23 holding company" means a building and loan association
24 holding company whose principal place of business is outside
25 Montana and whose operations are principally conducted

1 outside this state.

2 (8) "Person" means a natural person, corporation,
3 partnership, association, cooperative association,
4 unincorporated association, trust, or any other legal or
5 commercial entity.

6 (9) "Principally conducted" designates the principal
7 location of a building and loan association as the state in
8 which its deposits are greater than in any other state on
9 the date of the application in [section 5]. The operations
10 of a building and loan association holding company are
11 principally conducted in the state in which is located its
12 building and loan association subsidiary that has greater
13 deposits than any of its other building and loan
14 subsidiaries on the date of the application under [section
15 5].

16 NEW SECTION. Section 4. Prohibited acquisitions.

17 Except as authorized in this chapter or by the laws of the
18 United States, an out-of-state building and loan association
19 or an out-of-state building and loan association holding
20 company and any subsidiary or affiliate thereof may not
21 establish or maintain an office or conduct the business of a
22 building and loan association in Montana. An out-of-state
23 building and loan association or an out-of-state building
24 and loan association holding company, or any of their
25 subsidiaries or affiliates, may not directly or indirectly

1 acquire control of, acquire all or substantially all of the
2 assets of, merge or consolidate with, or assume the deposit
3 liabilities of a Montana building and loan association or of
4 a Montana building and loan association holding company.

5 NEW SECTION. Section 5. Acquisition by out-of-state
6 company. If an application has been submitted to the
7 department by an out-of-state building and loan association
8 or an out-of-state building and loan association holding
9 company and prior written approval has been obtained from
10 the department pursuant to [section 6], an out-of-state
11 building and loan association or out-of-state building and
12 loan association holding company may acquire control of,
13 acquire all or substantially all of the assets of, merge or
14 consolidate with, or assume the deposit liabilities of a
15 Montana building and loan association or a Montana building
16 and loan association holding company.

17 NEW SECTION. Section 6. Requirements for acquisition.

18 (1) A person may not effect or make a public offer to effect
19 a transaction described in [section 5] unless he has
20 complied with the provisions of this section and:

21 (a) requested authorization to engage in a transaction
22 described in [section 5];

23 (b) paid the application fee required by the
24 department for the transaction; and

25 (c) filed with the department:

1 (i) an application in a form required by the
2 department;

3 (ii) any information that the department may require
4 pursuant to any rule or regulation or that it determines to
5 be necessary to allow it to make the findings in the case of
6 any specific transactions that are required in this section;
7 and

8 (iii) if requested, a written statement furnishing the
9 examination records or portions of the records that the
10 department requests of the building and loan association or
11 building and loan association holding company involved in
12 the transaction.

13 (2) The department may, upon acceptance of an
14 application as complete or upon approval of an application,
15 require cooperation from the administrative regulator or
16 regulators of the out-of-state building and loan association
17 or out-of-state building and loan association holding
18 company involved in the transaction.

19 (3) Within 30 days of acceptance of the application as
20 complete, the department shall approve or disapprove the
21 application and shall state in writing its findings of fact,
22 conclusions, and order. The department may approve an
23 application subject to terms and conditions as it considers
24 necessary to protect the public interest and to carry out
25 the purposes of [this act]. The department may not approve

1 an application for a transaction if the applicant is a
2 foreign corporation that has not complied with 32-2-261.

3 (4) The department shall disapprove any application
4 filed under this section if it finds that:

5 (a) the proposed transaction is detrimental to the
6 safety and soundness of the applicant or to any Montana
7 building and loan association or Montana building and loan
8 association holding company that is a party to the proposed
9 transaction or to any subsidiary or affiliate of that
10 association or holding company;

11 (b) the applicant or its executive officers,
12 directors, or principal shareholders do not have a record of
13 sound performance, efficient management, financial
14 responsibility, and integrity such that authorization of the
15 proposed transaction would be against the interest of the
16 depositors or other customers, creditors, or shareholders of
17 the Montana building and loan association or the Montana
18 building and loan association holding company that is a
19 party to the proposed transaction or to a subsidiary or
20 affiliate of that association or holding company, or against
21 the public interest;

22 (c) the financial condition of the applicant or of any
23 Montana building and loan association or Montana building
24 and loan association holding company that is a party to the
25 proposed transaction is such that the financial stability of

1 the applicant might be jeopardized or the interests of
2 depositors or other customers of the applicant might be
3 prejudiced;

4 (d) the Montana building and loan association or
5 Montana building and loan association holding company to be
6 acquired has been chartered and actively engaged in business
7 for less than 4 years prior to the date of the application;
8 provided, however, that this subsection (4) may not be
9 construed to prohibit the approval of the acquisition of any
10 Montana building and loan association or Montana building
11 and loan association holding company formed solely to
12 facilitate the acquisition of all of the voting shares of a
13 Montana building and loan association that itself has been
14 chartered and actively engaged in business for 4 years or
15 more prior to the date of the application; or

16 (e) the consummation of the proposed transaction will
17 lessen competition within Montana, unless the department
18 finds that the anticompetitive effects of the proposed
19 transaction are clearly outweighed by the benefit of meeting
20 the convenience and needs of the community to be served.

21 **NEW SECTION. Section 7. Acquisition by Montana**
22 **company.** A Montana building and loan association or Montana
23 building and loan association holding company may acquire
24 control of, acquire all or substantially all of the assets
25 of, merge or consolidate with, or assume the deposit

liabilities of an out-of-state building and loan association or an out-of-state building and loan association holding company.

NEW SECTION. Section 8. Cooperative agreements. The department may:

(1) enter into cooperative and reciprocal agreements with other building and loan association regulatory agencies to facilitate the regulation of building and loan associations or building and loan association holding companies doing business in Montana;

(2) accept reports of examinations and other records from other regulatory agencies in lieu of conducting its own examinations of building and loan associations controlled by building and loan association holding companies whose operations are principally conducted in other states; and

(3) take any action jointly with other regulatory agencies having concurrent jurisdiction over building and loan associations or building and loan association holding companies doing business in Montana or take actions independently in order to carry out its responsibilities.

NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are

severable from the invalid applications.

NEW SECTION. Section 10. Repealer. Section 32-2-271, MCA, is repealed.

NEW SECTION. Section 11. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 12. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 32, chapter 2, and the provisions of Title 32, chapter 2, apply to [sections 1 through 8].

NEW SECTION. Section 13. Effective date. [This act] is effective on passage and approval.

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