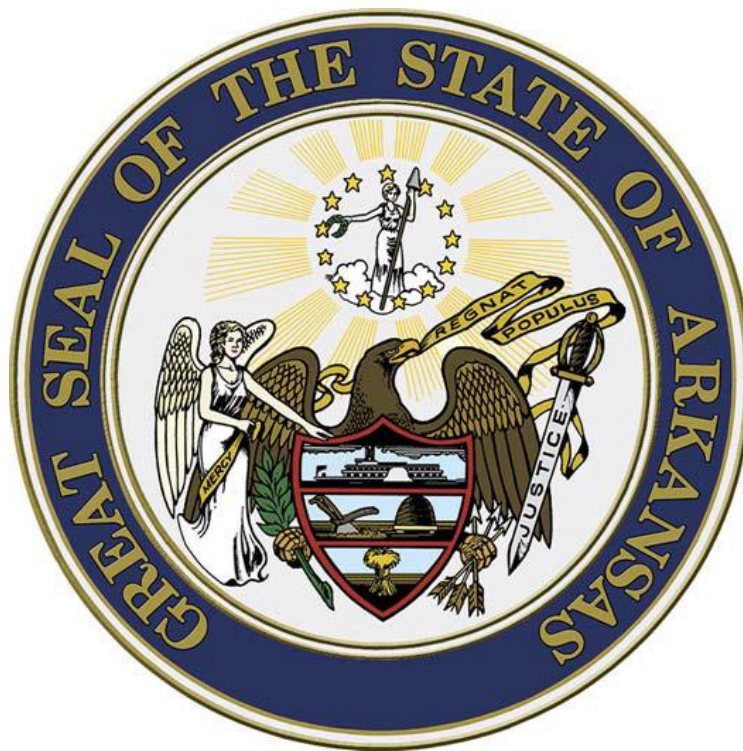


**ARKANSAS SAVINGS AND LOAN  
ASSOCIATION ACT  
EFFECTIVE JULY 24, 2019**



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## **SUBCHAPTER 1 – GENERAL PROVISIONS**

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### **23-37-101. Definitions.**

- (a) As used in this chapter, unless the context otherwise requires:
  - (1) “Association” means a corporation carrying on the business of a savings and loan association or a building and loan association under a charter issued by the State of Arkansas;
  - (2) “Board” means the Savings and Loan Association Board [abolished] duly appointed and acting pursuant to the terms of this chapter;
  - (3) “Broker” means a person, firm, or corporation who acts for or on behalf of any foreign savings and loan association or its agents, in soliciting or receiving applications for or funds for a savings account in any foreign savings and loan association;
  - (4) “Federal association” means a savings and loan association incorporated pursuant to the Home Owners’ Loan Act of 1933, whose principal business office is located within the territorial limits of this state;
  - (5) “Foreign association” means an association chartered under the laws of another state or a federal association organized in another state, but does not mean a federal association organized in this state;
  - (6) “Mutual association” means an association that does not have issued an outstanding permanent capital stock and whose affairs are managed by a board of directors elected by the members;
  - (7) “Savings account” means that part of the savings liability of an association which is credited to a member by reason of the investment of funds in the association other than permanent capital stock;

- (8) “Stock association” means an association that has issued an outstanding permanent capital stock and whose affairs are managed by a board of directors elected by the holders of the permanent capital stock; and
  - (9) “Supervisor” means the Supervisor of Savings and Loan Associations acting and appointed pursuant to the terms of this chapter.
- (b) The board may by rule define other terms used in this chapter and by the savings and loan industry.

**HISTORY.** Acts 1963, No. 227, § 1; 1979, No. 361, § 1; A.S.A. 1947, § 67-1801.

**23-37-102. Acts 1963, No. 227, controlling.**

Insofar as the provisions of this act are inconsistent with the provisions of any other law affecting savings and loan associations or building and loan associations, the provisions of this act shall control.

**HISTORY.** Acts 1963, No. 227, § 62; A.S.A. 1947, § 67-1862.

**23-37-103. Authority to do business as savings and loan association.**

- (a) From and after March 13, 1963, it shall be unlawful for any person, firm, company, association, fiduciary, partnership, or corporation, by whatever name called, except banks, to do business as a savings and loan association or a building and loan association within this state or to maintain any office in this state for the purpose of doing such business, except:
  - (1) Associations organized under the laws of this state and subject to this chapter; and
  - (2) Federal associations chartered to do business in this state.
- (b) Any person, firm, or corporation, by whatever name known, except banks, which accepts funds from the public in the form of savings accounts, deposits, certificates of deposit, or similar evidences of indebtedness, and a substantial part of whose business is the making of loans on the security of real estate, shall be subject to all of the laws of this state governing the operation of a savings and loan or building and loan association.

**HISTORY.** Acts 1963, No. 227, § 57; A.S.A. 1947, § 67-1857.

**23-37-104. Preexisting associations.**

- (a) The name, rights, powers, privileges, and immunities of every corporation incorporated in this state prior to March 13, 1963, and authorized under the laws of this state to carry on the business of a building and loan association or savings and loan association shall be governed, controlled, construed, extended, limited, and determined by the provisions of this act to the same extent and effect as if the corporation had been incorporated pursuant hereto.
- (b) The articles of incorporation or association, certificate of incorporation, or charter, however entitled, bylaws and constitution, or other rules of every such corporation made or existing prior to March 13, 1963, are modified, altered, and amended to conform to the provisions of this act, with or without the issuance or approval by the Supervisor of Savings and Loan Associations of conformed copies of those documents. These documents are declared void to the extent that they are inconsistent with the provisions of this act.
- (c) However, the obligations of any such existing corporation, whether between the corporation and its members, or any of them, or any other person, or any valid contract between the members of the corporation, or between the corporation and any other person, existing at the time this act takes effect, shall not be in any way impaired by the provisions of this act.
- (d) With the exceptions mentioned in subsection (c) of this section, every such corporation shall possess the same rights, powers, privileges, and immunities as if chartered under this act and shall be subject to the duties, liabilities, disabilities, and restrictions conferred and imposed by this act, notwithstanding anything to the contrary in its certificate of incorporation, bylaws, constitution, or rules.
- (e) All obligations to the corporation contracted prior to March 13, 1963, shall be enforceable by it and in its name, and demands, claims, and rights of action against the corporation may be enforced against it as fully and completely as they might have previously been enforced.
- (f) The existing charter of any association formed pursuant to Acts 1929, No. 128, or any other law of this state, is confirmed and shall be deemed to be valid and outstanding to the same extent as if issued pursuant to this act.

**HISTORY.** Acts 1963, No. 227, § 56; A.S.A. 1947, § 67-1856.

**23-37-105. Arkansas Business Corporation Act applicable to stock savings and loan associations.**

Hereafter the Arkansas Business Corporation Act, § 4-26-101 et seq., shall be applicable to permanent stock savings and loan associations created or operating under the provisions of Acts

1963, No. 227, and those savings and loan associations shall enjoy the same powers and privileges and be subject to the same duties, restrictions, and liabilities as other corporations, except so far as the same may be limited or enlarged by the provisions of Acts 1963, No. 227. If any provision of Acts 1963, No. 227, conflicts with the Arkansas Business Corporation Act, § 4-26-101 et seq., the provisions of Acts 1963, No. 227, shall govern.

**HISTORY.** Acts 1971, No. 110, § 1; A.S.A. 1947, § 67-1864.

**23-37-106. Federal savings and loan associations.**

Unless federal laws or regulations provide otherwise, federal associations and the members thereof, incorporated pursuant to the Home Owners' Loan Act of 1933, shall possess all of the rights, powers, privileges, benefits, immunities, and exemptions that are provided for associations under this act. The making of any sections of this act specifically applicable to federal associations shall not be construed as making other sections of the act inapplicable to federal associations.

**HISTORY.** Acts 1963, No. 227, § 61; A.S.A. 1947, § 67-1861.

**23-37-107. Fees.**

The Supervisor of Savings and Loan Associations shall collect in advance, and the person or association so served shall pay, the following fees and charges:

- (1) In charter application proceedings:
  - (A) For filing an application for charter, one thousand five hundred dollars (\$1,500);
  - (B) For filing a protest to an application for charter, one thousand dollars (\$1,000) from each protestant; and
  - (C) For filing a petition for rehearing, seven hundred fifty dollars (\$750);
- (2) For filing and approval of an amendment to bylaws or articles of incorporation, twenty-five dollars (\$25.00);
- (3) (A) An annual fee, payable at the time the annual report of the association is filed, equal to:
  - (i) Two hundred fifty dollars (\$250) for each one million dollars (\$1,000,000) of assets or fraction thereof, up to two million dollars (\$2,000,000);



- (ii) One hundred dollars (\$100) on each one million dollars (\$1,000,000) of assets or fraction thereof, over two million dollars (\$2,000,000) and less than five million dollars (\$5,000,000); and
    - (iii) Fifty dollars (\$50.00) on each one million dollars (\$1,000,000) of assets or fraction thereof, over five million dollars (\$5,000,000).
  - (B) No association chartered under the laws of this state shall be subject to any privilege, occupation, or franchise taxes for transacting business throughout the state.
  - (C) In no event shall any association pay an annual fee in excess of five thousand dollars (\$5,000);
- (4) For each extraordinary examination ordered by the Savings and Loan Association Board [abolished], a fee of one hundred dollars (\$100) per day for each examiner for each and every day the examiner is absent from the office of the supervisor for the purpose of making the examination. In addition, the person or association shall pay the actual hotel and traveling expenses of the authorized examiner to and from Little Rock;
- (5) For filing a petition for conversion and verified minutes evidencing a conversion or plan of merger or consolidation, a fee of two hundred fifty dollars (\$250);
- (6) For filing a certificate of dissolution, a fee of one hundred dollars (\$100);
- (7) For filing a copy of a charter of a federal savings and loan association, a fee of fifty dollars (\$50.00);
- (8) The supervisor is authorized, in his or her discretion, to charge a fee of not exceeding ten dollars (\$10.00) upon each application for his or her approval or the approval of the board, as provided by this chapter;
- (9) For each certificate of the supervisor authenticating any document or other instrument, a fee of two dollars fifty cents (\$2.50), plus two dollars (\$2.00) for each page of the document or instrument;
- (10) For issuing a broker's license or for the annual renewal of a broker's license, a fee of five hundred dollars (\$500);
- (11) For a request for a special meeting of the board, one thousand five hundred dollars (\$1,500);
- (12) For each examination of an association by an authorized examiner from the office of the supervisor, a fee of fifty dollars (\$50.00) per day for each examiner for each and every day the examiner is absent from the office of the supervisor for the purpose of making the examination. In addition, the person or association shall

pay the actual hotel and traveling expenses of the authorized examiner to and from Little Rock;

- (13) In branch office or other service facility application proceedings:
  - (A) For filing an application for a branch office or other service facility, two hundred fifty dollars (\$250);
  - (B) For filing a protest to an application for a branch office or other service facility, five hundred dollars (\$500) from each protestant;
  - (C) Upon the filing of one (1) or more protests, two hundred fifty dollars (\$250) from the applicant; and
  - (D) For filing a petition for rehearing, seven hundred fifty dollars (\$750); and
- (14) In any proceeding before the board or the supervisor regarding any application, the applicant shall pay all costs of having the proceedings transcribed, and, if the proceedings are transcribed, the applicant shall furnish the original copy of the transcript to the supervisor.

**HISTORY.** Acts 1963, No. 227, § 54; 1975, No. 531, §§ 5-11; 1979, No. 361, § 10; A.S.A. 1947, § 67-1854.

**23-37-108. Associations subject to gross receipts and compensating taxes.**

All savings and loan associations organized pursuant to the laws of this state and doing business in this state and all federal savings and loan associations doing business in this state shall be subject to the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

**HISTORY.** Acts 1969, No. 352, § 1; A.S.A. 1947, § 67-1863.

## SUBCHAPTER 2 – SUPERVISION

- 23-37-201. Regulatory agencies generally.
- 23-37-202. Disclosure of information.
- 23-37-203. [Repealed.]
- 23-37-204. Records of hearings and decisions.
- 23-37-205. [Repealed.]
- 23-37-206. Division of Savings and Loan Associations — Supervisor — Staff.
- 23-37-207. Supervisor's powers and duties generally.
- 23-37-208. Supervisor's investigatory powers.
- 23-37-209. Communications from supervisor — Manner of sending.
- 23-37-210. Annual audit and examination.
- 23-37-211. Accounting practices.
- 23-37-211. Accounting practices.
- 23-37-212. Cease and desist orders, injunctions, etc.
- 23-37-213. [Repealed.]
- 23-37-214. Appeal from decision of board.

### **23-37-201. Regulatory agencies generally.**

All associations subject to this chapter shall be supervised and regulated, and the provisions of this chapter shall be enforced by the Supervisor of Savings and Loan Associations, acting pursuant to the authority delegated by this chapter.

**HISTORY.** Acts 1963, No. 227, § 47; A.S.A. 1947, § 67-1847; Acts 1997, No. 258, § 1.

### **23-37-202. Disclosure of information.**

All associations subject to this chapter shall be supervised and regulated, and the provisions of this chapter shall be enforced by the Supervisor of Savings and Loan Associations, acting pursuant to the authority delegated by this chapter.

**HISTORY.** Acts 1963, No. 227, § 47; A.S.A. 1947, § 67-1847; Acts 1997, No. 258, § 1.

### **23-37-203. [Repealed.]**

### **23-37-204. Records of hearings and decisions.**

All associations subject to this chapter shall be supervised and regulated, and the provisions of this chapter shall be enforced by the Supervisor of Savings and Loan Associations, acting pursuant to the authority delegated by this chapter.

**HISTORY.** Acts 1963, No. 227, § 47; A.S.A. 1947, § 67-1847; Acts 1997, No. 258, § 1.

**23-37-205. [Repealed.]**

**23-37-206. Division of Savings and Loan Associations — Supervisor — Staff.**

- (a) There is created a Division of Savings and Loan Associations of the State Securities Department which shall be administered by the Supervisor of Savings and Loan Associations.
- (b) (1) The Securities Commissioner, in consultation with the Secretary of the Department of Commerce, shall act as Supervisor of Savings and Loan Associations. He or she may appoint an assistant securities commissioner responsible for financial institutions to act as the Assistant Supervisor of Savings and Loan Associations and perform all duties delegated by the commissioner.
  - b The supervisor, in consultation with the Secretary of the Department of Commerce, shall appoint any other assistants, secretaries, and examiners who may be necessary to assist in the performance of his or her duties under this chapter.

**HISTORY.** Acts 1963, No. 227, § 2; 1979, No. 361, § 2; A.S.A. 1947, § 67-1802; Acts 2019, No. 910, § 572.

**23-37-207. Supervisor's powers and duties generally.**

- (a) The Supervisor of Savings and Loan Associations shall have general supervision of associations doing business in this state and shall be charged with the execution of the laws of this state relating to those associations.
- (b) In order to fulfill his or her responsibilities, the supervisor shall have the following powers, duties, limitations, and functions:
  - (1) He or she shall have all the rights, powers, and privileges heretofore vested in the Savings and Loan Association Board [abolished] and be subject to all duties to which the Savings and Loan Association Board [abolished] was heretofore subject;
  - (2) He or she shall, in such coordination with the Federal Home Loan Bank Board [abolished], the Federal Deposit Insurance Corporation, and other federal and state regulatory authorities as he or she deems appropriate, provide for the orderly examination and supervision of associations

regulated by this chapter. All federal records, documents, and examinations received by the supervisor are not public unless released by the appropriate federal agency; and

- (3) He or she, or any designated assistant, shall hear all applications for charters for new associations, all protested applications for new branches, those matters concerning a protested move of the home office or a branch office, any conversion application by an association, and all other administrative matters under this chapter. Administrative decisions of the supervisor are subject to appeal as set forth in § 23-37-214.
- (c) (1) The supervisor, after public hearing, notice of which has been given to every association in the state, shall have power and authority to issue rules governing the operation of associations in a manner consistent with this chapter and other applicable Arkansas laws. In addition, he or she shall have the power to make and promulgate any forms which are necessary for the administration of this chapter.
- (2) These rules may from time to time be amended, modified, or repealed by the Savings and Loan Association Board [abolished] and shall have uniform application to all associations subject to the provisions of this chapter.
- (d) Any person affected or who may be affected by an action of the supervisor shall be given the opportunity of appearing and presenting evidence before the supervisor.

**HISTORY.** Acts 1963, No. 227, §§ 2, 12; 1979, No. 361, § 2; A.S.A. 1947, §§ 67-1802, 67-1812; Acts 1997, No. 258, § 5; 2019, No. 315, § 2494.

**23-37-208. Supervisor's investigatory powers.**

- (a) For the purpose of any investigation, examination, inquiry, or proceeding under this chapter, the Supervisor of Savings and Loan Associations or any officer designated by the supervisor may administer oaths and affirmations, subpoena witnesses or documents, compel their attendance, take evidence, and require the production of any books, papers or correspondence, memoranda, agreements, or other documents which the supervisor deems relevant or material to the inquiry or examination.
- (b) In case of contumacy or refusal to obey a subpoena issued to any person, the Pulaski County Circuit Court, upon application by the supervisor, may issue to the person an order requiring him or her to appear before the supervisor or the officer designated by him or her, there to produce documentary evidence if so ordered or

to give evidence concerning the examination, investigation, or inquiry. Failure to obey the order of the court may be punished by the court as a contempt of court.

**HISTORY.** Acts 1963, No. 227, § 49; 1979, No. 361, § 9; A.S.A. 1947, § 67-1849; Acts 2013, No. 1144, § 3.

**23-37-209. Communications from supervisor — Manner of sending.**

Every approval or rejection by the Supervisor of Savings and Loan Associations given pursuant to provisions of this chapter and every communication having the effect of an order or instruction to any association shall be sent by certified mail to the affected association, addressed to the president at the home office of the association, and shall be presented to the board of directors of the association at its next regular meeting, or at a special meeting called for that purpose, and noted in the minutes of the meeting.

**HISTORY.** Acts 1963, No. 227, § 4; A.S.A. 1947, § 67-1804.

**23-37-210. Annual audit and examination.**

- (a) (1) The affairs of every association subject to this chapter shall be examined and audited periodically by the Supervisor of Savings and Loan Associations.
- (2) However, the audit and examination may be performed jointly by the supervisor and either the Federal Home Loan Bank Board [abolished], a Federal Home Loan bank, or the Federal Savings and Loan Insurance Corporation [abolished]. The supervisor shall accept the examination and audit, in whole or in part, of either the Federal Home Loan Bank Board [abolished], a Federal Home Loan bank, the Federal Savings and Loan Insurance Corporation [abolished], or an independent certified public accountant, provided the examination and audit are made available to the supervisor. Federal records, documents, and examinations received by the supervisor are not public unless released by the appropriate federal agency.
- (b) The report of the examinations, any letters of comment, and the audit shall be filed with the supervisor.
- (c) The supervisor or his or her authorized representative shall have free access to all books and records of an association.
- (d) Whenever in the judgment of the supervisor the condition of an association renders it necessary or expedient to make extra or additional examinations or

audits, the supervisor shall cause the additional work to be done, and the association shall pay the cost of it.

- (e) Every report of examination or audit shall be presented by the president of the association to its board of directors at their next regular meeting, or at a special meeting called for that purpose, and noted in the minutes thereof.

**HISTORY.** Acts 1963, No. 227, § 49; 1979, No. 361, § 9; A.S.A. 1947, § 67-1849.

**23-37-211. Accounting practices.**

Every association shall use those forms and observe those accounting principles and practices which the Supervisor of Savings and Loan Associations, with the approval of the Savings and Loan Association Board [abolished], may require from time to time.

**HISTORY.** Acts 1963, No. 227, § 48; A.S.A. 1947, § 67-1848.

**23-37-212. Cease and desist orders, injunctions, etc.**

- (a)
  - (1) If after notice from the Supervisor of Savings and Loan Associations, an association continues to violate a section of this chapter or the rules or is engaging in an unsafe and unsound practice, then the supervisor may issue a cease and desist order to discontinue the practice.
  - (2) If ninety (90) days after the cease and desist order has been entered the association continues to violate this chapter or the rules, then the supervisor may impose a civil fine of up to one hundred dollars (\$100) per day until the violation or unsafe and unsound practice ceases.
  - (3) All fines collected by the supervisor will be transferred to the general revenues of the State of Arkansas.
- (b)
  - (1) Whenever it appears to the supervisor, upon sufficient grounds or evidence satisfactory to him or her, that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, he or she may summarily order the person to cease and desist from that act or practice. The order shall be effective for not more than twenty (20) days, during which time the supervisor may apply to the Pulaski County Circuit Court to enjoin the act or practice and to enforce compliance with this chapter or any rule or order hereunder.
  - (2) However, the supervisor may, without issuing a cease and desist order, apply directly to the Pulaski County Circuit Court for the aforesaid relief.

(3) Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(4) The court may not require the supervisor to post bond.

**HISTORY.** Acts 1963, No. 227, § 49; 1963, No. 227, § 70, as added by Acts 1979, No. 361, § 13; 1979, No. 361, § 9; A.S.A. 1947, §§ 67-1849, 67-1869.

**23-37-213. [Repealed.]**

**23-37-214. Appeal from decision of board.**

- (a) Any person affected by any action, decision, or order of the Savings and Loan Association Board [abolished] may, within thirty (30) days after a written copy of the action, decision, or order has been mailed to that person, appeal as a matter of right to the Pulaski County Circuit Court by filing written notice of appeal in that court and by filing a copy of the notice with the Supervisor of Savings and Loan Associations.
- (b) Upon filing of the notice of appeal, the court shall have full jurisdiction, shall determine whether the appeal shall operate as a stay of the order, decision, or action appealed from, and shall have the right at any time thereafter to issue any other temporary or preliminary orders which it may deem proper until final judgment is rendered.
- (c) Within thirty (30) days after the filing of a notice of appeal in his or her office, the supervisor shall make, certify, and deposit in the office of the clerk of the court a full and complete transcript of all proceedings had before the board and of all evidence before the board in the matter and of all files of the supervisor therein.
- (d) As soon as reasonably possible after receipt of the transcript, evidence, and files, the Pulaski County Circuit Court shall review the action of the board appealed from. The appeal shall be upon the basis of the record so presented. In any such review the findings of the board as to the facts, if supported by substantial evidence, shall be conclusive.
- (e) After hearing the appeal, the court may affirm, modify, or reverse the order or action of the board in whole or in part or remand the action to the board for further proceedings in accordance with the court's direction, including the taking of additional evidence.
- (f) Costs shall be awarded as in civil actions.



- (g) An appeal may be taken to the Supreme Court from a judgment of the circuit court, as in other civil cases.

**HISTORY.** Acts 1963, No. 227, § 11; A.S.A. 1947, § 67-1811.

### SUBCHAPTER 3 – ORGANIZATION

- 23-37-301. Application for charter.
- 23-37-302. Capitalization requirements generally.
- 23-37-303. Permanent capital stock.
- 23-37-304. Permanent stock associations — Paid-in surplus requirements.
- 23-37-305. Permanent stock associations — Initial subscriptions to savings accounts.
- 23-37-306. Mutual associations — Expense fund requirement.
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- 23-37-311. Failure to commence business — Cancellation of charter.
- 23-37-312. Amendment of charter and bylaws.
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- 23-37-314. Indemnity bonds of directors, officers, and employees.
- 23-37-315. Corporate name.
- 23-37-316. Standards of conduct

#### **23-37-301. Application for charter.**

- (a) Application for a charter for a savings and loan association may be made by ten (10) or more citizens of this state, hereinafter referred to as “incorporators”, by tendering to the supervisor, along with the prescribed filing fee, an application consisting of the following:
  - (1) Two (2) copies of the articles of incorporation for the proposed association stating:
    - (A) The name and the site of the principal office of the association;
    - (B) The names and addresses of the incorporators;
    - (C) The name and address of the resident agent for service of process on the association;
    - (D) The term of the corporate existence, which may be either perpetual or limited to a fixed number of years;
    - (E) Whether the association will carry on its business as a mutual association or as a permanent stock association; and
    - (F) For a permanent stock association, the number of shares of permanent stock authorized and the par value of each share;

- (2) A statement as to:
    - (A) The amount, if any, of permanent stock which has been subscribed and paid for at the time of filing;
    - (B) The names and addresses of the subscribers and the amount subscribed by each;
    - (C) The names, addresses, and amounts of savings accounts which have been subscribed; and
    - (D) The amount of paid-in surplus or expense fund with which the association will commence business;
  - (3) Two (2) copies of the bylaws under which the association proposes to operate;
  - (4) The names and addresses of the chair of the incorporators, the proposed members of the board of directors, and the proposed officers; and
  - (5) Any other information in regard to the proposed association and its operation which may be required by the Supervisor of Savings and Loan Associations.
- (b) The articles of incorporation and all statements of fact tendered to the supervisor in connection with an application for charter shall be subscribed and sworn to under the sanction of an oath, or such affirmation as is by law equivalent to an oath, made before an officer authorized to administer oaths.

**HISTORY.** Acts 1963, No. 227, § 16; A.S.A. 1947, § 67-1816.

**23-37-302. Capitalization requirements generally.**

The capitalization of a proposed stock or mutual association shall be in accordance with rules established by the Savings and Loan Association Board [abolished]. In establishing its requirements, the board may consider those requirements established by the Federal Savings and Loan Insurance Corporation [abolished], but its requirements may not be greater than those prescribed by that corporation.

**HISTORY.** Acts 1963, No. 227, § 19; 1979, No. 361, § 6; A.S.A. 1947, § 67-1819; Acts 2019, No. 315, § 2495.

**23-37-303. Permanent capital stock.**

- (a) The charter of an association may provide for the issuance of permanent capital stock. The permanent capital stock, when issued, may not be retired or withdrawn, except as provided in this section, until all liabilities of the association shall have been satisfied in full, including the withdrawal value of all savings accounts.
- (b) Permanent capital stock must be fully paid in cash in advance of issuance, and the association may not make any loans against the shares of the stock.
- (c) Shares of permanent capital stock may have a par value of not less than one dollar (\$1.00) nor more than one hundred dollars (\$100) each.
- (d) An association authorized to issue capital stock must have, at all times, issued and outstanding, an amount thereof equal in par value to the minimum capital requirements set out in § 23-37-302 or two and one-half percent (2½%) of its gross assets, whichever is greater, but no association shall be required to have more than two hundred fifty thousand dollars (\$250,000) of par value of the stock outstanding.
- (e) Associations whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation [abolished] may retire a part of any permanent capital stock issued prior to March 13, 1963, when the associations are authorized to do so by majority vote at any annual meeting of their stockholders, or any special meeting of their stockholders called for such a purpose. However, the basis of the retirement shall have been first approved by the Supervisor of Savings and Loan Associations and by the Savings and Loan Association Board [abolished].

**HISTORY.** Acts 1963, No. 227, § 18; A.S.A. 1947, § 67-1818.

**23-37-304. Permanent stock associations — Paid-in surplus requirements.**

As a prerequisite to the approval of any application for a permanent stock association, the incorporators must show to the satisfaction of the Supervisor of Savings and Loan Associations a paid-in surplus of not less than one-third (1/3) of the aggregate amount of the permanent capital stock required by this chapter. The paid-in surplus may be used in lieu of earnings to pay organization and operating expenses, dividends on savings accounts, and to meet any loss reserve requirements.

**HISTORY.** Acts 1963, No. 227, § 20; A.S.A. 1947, § 67-1820.

**23-37-305. Permanent stock associations — Initial subscriptions to savings accounts.**

As a prerequisite to approval of any application for a proposed permanent stock association, the incorporators must show, to the satisfaction of the Savings and Loan Association Board [abolished], subscribed savings accounts from individuals in the aggregate number and amount which, in the opinion of the board, will justify the initial successful operation of the association.

**HISTORY.** Acts 1963, No. 227, § 30; A.S.A. 1947, § 67-1830.

**23-37-306. Mutual associations — Expense fund requirement.**

- (a) In addition to the savings account subscriptions required by this chapter, the incorporators of a mutual association must show to the satisfaction of the Supervisor of Savings and Loan Associations that an expense fund has been subscribed and paid in to the credit of the proposed association equal to not less than one-third ( $\frac{1}{3}$ ) of the required savings accounts, from which expense fund the expenses of organizing the association and its operating expenses, in addition to such dividends as may be declared and paid or credited to its savings account holders, may be paid until such time as its earnings are sufficient to pay them.
- (b) The amount so contributed to the expense fund shall not constitute a liability of the association except as provided in this section.
- (c)
  - (1) The contributions may be repaid pro rata to the contributors from the net earnings of the association after provision for required loss reserve and payment of dividends declared on savings accounts.
  - (2) In case of a liquidation of an association before contributions to the expense fund have been repaid, any contributions to the expense fund remaining unexpended after payment of all creditors, the expenses of liquidation, and the withdrawal value of all savings accounts shall be paid pro rata to the contributors.
- (d) Contributors to the expense fund shall be paid dividends, and for such purposes their contributions shall be considered as savings accounts of the association.

**HISTORY.** Acts 1963, No. 227, § 22; A.S.A. 1947, § 67-1822.

**23-37-307. Bylaws.**

In addition to any provisions which may be adopted by the incorporators and approved by the Supervisor of Savings and Loan Associations, the bylaws of every association shall provide:

- (1) For an annual meeting of the membership of the association, or of the owners of permanent capital stock, for the purpose of electing directors;
- (2) For not fewer than five (5) nor more than twenty-one (21) members of the board of directors;
- (3) For not less than ten (10) days' written notice to all members, or holders of permanent capital stock, of any special meeting of the association. Provided, no notice of an annual meeting of an association shall be required;
- (4) For a term of office not to exceed one (1) year for each member of the board of directors; and
- (5) For the amendment of the bylaws, with the approval of the supervisor, by a majority of the members present, or holders of permanent capital stock, at any annual or special meeting of the association.

**HISTORY.** Acts 1963, No. 227, § 17; 1975, No. 531, § 2; A.S.A. 1947, § 67-1817.

**23-37-308. Insurance of accounts.**

No association chartered under this chapter shall carry on the business of a savings and loan association in this state until it has filed with the Supervisor of Savings and Loan Associations satisfactory evidence that its savings accounts are insured by the Federal Savings and Loan Insurance Corporation [abolished] or other similar agency or corporation of the United States.

**HISTORY.** Acts 1963, No. 227, § 31; A.S.A. 1947, § 67-1831.

**23-37-309. Hearings on charter applications.**

When a proper application for a charter has been filed, the Supervisor of Savings and Loan Associations shall hold a public hearing on the application, after giving not less than twenty (20) days' written notice of the date and time of hearing to each existing association or federal association in the state. The notice shall be made promptly after the filing of an application. At the hearing, any interested party may appear, present evidence, and be heard for or against the application.

**HISTORY.** Acts 1963, No. 227, § 23; 1973, No. 292, § 2; A.S.A. 1947, § 67-1823; Acts 1997, No. 258, § 7.

**23-37-310. Approval or denial of application for charter.**

- (a) The Savings and Loan Association Board [abolished] shall not approve any charter application unless the incorporators establish and the board shall have

affirmatively found from the data furnished with the application, the evidence adduced at the hearing, and the official records of the Supervisor of Savings and Loan Associations that:

- (1) All the prerequisites for the approval of a charter set forth in this chapter have been complied with;
  - (2) The character, responsibility, and general fitness of the persons who are named in the articles of incorporation and who will serve as directors and officers of the association are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter and the proposed association will have qualified full-time management;
  - (3) There is a public need for the proposed association, and the volume of business in the area in which the proposed association will conduct its business is such as to indicate a successful operation;
  - (4) The operation of the proposed association will not unduly harm any other existing association, federal savings and loan association, or other financial institution; and
  - (5)
    - (A) The proposed association will be independent of the other financial institutions.
    - (B) Those persons named in the articles of incorporation as directors and officers do not have affiliations with any financial institutions or other businesses closely related to the savings and loan association business which would affect the independence of the proposed association.
    - (C) The directors are representative of the community.
- (b)
  - (1) If the board so finds, its findings shall be stated in writing, and the supervisor shall endorse the approval of the board on the proposed articles of incorporation and bylaws, whereupon the proposed association shall be a corporate body and may exercise the powers of a savings and loan association as set forth in this chapter.
  - (2) A copy of the articles of incorporation of the association bearing the approval of the supervisor shall be filed in the office of the supervisor, with the Secretary of State, and with the county clerk of the county in which the home office of the association is located.

- (c) If the board does not make the findings as required by subsection (a) of this section, it shall issue a written statement of its grounds for refusal. This statement shall be promptly mailed to the chair of the incorporators by certified mail.

**HISTORY.** Acts 1963, No. 227, §§ 24, 25; 1973, No. 292, § 3; A.S.A. 1947, §§ 67-1824, 67-1825.

**23-37-311. Failure to commence business — Cancellation of charter.**

- (a) Within one (1) year after the date of the action of the Savings and Loan Association Board [abolished] granting the charter, the association shall furnish satisfactory evidence to the Supervisor of Savings and Loan Associations that it has commenced business. If the order of the board granting the charter of any action regarding insurance of its accounts is appealed to one (1) or more state or federal courts, the association shall show proof that it has commenced business within one (1) year after the conclusion of the litigation.
- (b)
  - (1) If any association fails to commence business within the one-year period and the supervisor so finds after notice and hearing, he or she shall enter an order cancelling the charter unless good cause is shown for the failure, in which event the supervisor shall grant a reasonable extension of time for commencing business, not to exceed two (2) years, to give the association the opportunity to overcome the cause for delay.
  - (2) No charter shall be cancelled during the pendency of any litigation in any state or federal court regarding the charter, the operation, or the insurance of the accounts of a savings and loan association.
- (c) The supervisor shall file a copy of any order cancelling a savings and loan association charter with the Secretary of State and with the county clerk of the county in which the home office of the association is located.
- (d) Parties other than the affected association shall not be heard regarding any extension of time of an association's charter. However, any party which appeared before the board protesting the granting of the charter shall, upon written request, be notified of the determination of the supervisor on the extension request.

**HISTORY.** Acts 1963, No. 227, § 26; 1975, No. 531, § 3; 1977, No. 350, § 1; A.S.A. 1947, § 67-1826.

**23-37-312. Amendment of charter and bylaws.**

By resolution adopted by a majority vote of its members if a mutual association, or by its stockholders if a permanent stock association, at any annual meeting or special meeting called for that purpose, any association may amend its articles of incorporation or bylaws in any



manner not inconsistent with the provisions of this chapter. However, before the amendments become effective, they must be filed with, and approved by, the Supervisor of Savings and Loan Associations.

**HISTORY.** Acts 1963, No. 227, § 27; A.S.A. 1947, § 67-1827.

**23-37-313. Changes in name, location, etc.**

- (a) No association shall, without the prior approval of the Savings and Loan Association Board [abolished] or Supervisor of Savings and Loan Associations:
  - (1) Establish any branch office other than the principal office stated in its articles of incorporation;
  - (2) Move any principal office or branch office of the association beyond two (2) miles of its original location; or
  - (3) Change its name.
- (b) (1) When approval is applied for, the supervisor shall give written notice, as required by this chapter and the rules of the board, to every state or federal association whose home office is located in the same county or whose home office is in a county adjoining the county in which the home office of the petitioning association is located.
  - (2) If no protest is received within the time set forth by this chapter and by the board in its rules, the supervisor may approve or deny the establishment or move of any branch office, move of a home office, or a change of name.
- (c) An association may not move its home office from the county in which its home office was originally located.

**HISTORY.** Acts 1963, No. 227, § 29; 1975, No. 531, § 4; 1979, No. 361, § 7; A.S.A. 1947, § 67-1829.

**23-37-314. Indemnity bonds of directors, officers, and employees.**

- (a) Every association shall maintain on file with the Supervisor of Savings and Loan Associations an effective blanket indemnity bond with a corporate surety protecting the association from loss by or through any fraud, dishonesty, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, holdup, wrongful or unlawful abstraction, misappropriation, or any other dishonest or criminal action or omission by any director, officer, or employee of the association.

- (b) Associations which employ collection agents, who for any reason are not covered by a bond as required in subsection (a) of this section, shall provide for the bonding of each collection agent in an amount equal to at least twice the average monthly collection of the agent. Collection agents shall be required to make settlement with the association at least monthly. No bond coverage will be required of any agent which is a bank insured by the Federal Deposit Insurance Corporation or an institution insured by the Federal Savings and Loan Insurance Corporation [abolished].
- (c) The amounts and forms of the bonds and sufficiency of the surety thereupon shall be approved by the supervisor. All of the bonds shall provide that a cancellation thereof either by the surety or the insured shall not become effective unless and until thirty (30) days' notice in writing first shall have been given to the supervisor, unless he or she approves the cancellation earlier.

**HISTORY.** Acts 1963, No. 227, § 33; A.S.A. 1947, § 67-1833.

**23-37-315. Corporate name.**

- (a)
  - (1) The name of every new association organized under this chapter shall include either the words “savings and loan association” or “building and loan association”.
  - (2) These words shall be preceded by appropriate descriptive words approved by the Savings and Loan Association Board [abolished].
  - (3) An ordinal number may not be used as a single descriptive word preceding the words “savings and loan association” or “building and loan association” unless such words are followed by the words “of,” the blank being filled by the name of the town, city, or county in which the association has its home office.
  - (4) The words “national”, “federal”, “United States”, “insured”, “guaranteed”, or any form thereof, separately or in any combination thereof with other words or syllables, may not be used as part of the corporate name of an association organized under this chapter.
- (b) A charter shall not be granted to a proposed association having the same name as any other association or federal savings and loan association authorized to do business in this state or a name so nearly resembling it as to be calculated to deceive, except an association formed by a reincorporation, reorganization, or consolidation of other associations, or upon the sale of the property or franchise of an association.

- (c) No person, firm, company, association, fiduciary, partnership, or corporation, either domestic or foreign, unless authorized to do business in this state under the provisions of this chapter, shall do business under any name or title which indicates, or reasonably implies, that the business is the character or the kind of business carried on or transacted by an association, or which is calculated to lead any person to believe that the business is that of an association.
- (d) Upon application by the Supervisor of Savings and Loan Associations or by any affected association, a court of competent jurisdiction may issue an injunction to restrain any such entity from violating or continuing to violate any of the foregoing provisions of this section.

**HISTORY.** Acts 1963, No. 227, § 28; A.S.A. 1947, § 67-1828.

**23-37-316. Standards of conduct**

- (a) A director of a state-chartered savings and loan association or federal savings bank shall discharge his or her duties as a director, including his or her duties as a member of any committees:
  - (1) In good faith;
  - (2) With the care an ordinary prudent person in a like position would exercise under similar circumstances; and
  - (3) In a manner he or she reasonably believes to be in the best interest of the savings and loan association or federal savings bank.
- (b) In discharging his or her duties, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
  - (1) One (1) or more officers or employees of the savings and loan association whom the director reasonably believes to be reliable and competent in matters presented;
  - (2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or
  - (3) A committee of the board of directors of which he or she is not a member, if the director reasonably believes the committee merits confidence.

- (c) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance on the information or data described in subsection (b) of this section unwarranted.
- (d) A director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this section.

**HISTORY.** Acts 1993, No. 990, § 1.

## **SUBCHAPTER 4 – OPERATION GENERALLY**

- 23-37-401. Powers commensurate with federal associations.
- 23-37-402. Authority to act as trustee for certain trusts.
- 23-37-403. Dividends.
- 23-37-404. Branch offices.
- 23-37-405. Membership charges prohibited.
- 23-37-406. Payment of commission on sale of stock.

### **23-37-401. Powers commensurate with federal associations.**

Irrespective of any limitations contained in this chapter, the Supervisor of Savings and Loan Associations may adopt rules authorizing or empowering any association chartered or operating under the provisions of this chapter to:

- (1) Pay or give any premium or other concession for the opening or increasing of a savings account to the same extent that the payment of premiums or the granting of other concessions may be authorized for a federal association doing business in this state;
- (2) Designate the legal relationship between the association and the holder of a savings account with the association and the name to be given the savings account in any advertising or public description of the savings account to the same extent that those designations and legal relationships are authorized for a federal association doing business in this state;
- (3) Adopt any dividend or interest paying date or other procedure or practice with respect to the paying of interest or dividends authorized for a federal association doing business in this state;
- (4) Adopt any business practice, procedure, method, or system authorized by a federal association doing business in this state, except nothing herein will permit an extension of a state savings and loan association's branching authority beyond the limitations of state law; and
- (5) Make any loan or investment that a federal association doing business in this state is authorized to make.

**HISTORY.** Acts 1963, No. 227, § 58; 1969, No. 242, § 1; A.S.A. 1947, § 67-1858; Acts 1988 (4th Ex. Sess.), No. 2, § 8; 1988 (4th Ex. Sess.), No. 12, § 8; 2001, No. 1553, § 35; 2019, No. 315, § 2496.

**23-37-402. Authority to act as trustee for certain trusts.**

- (a) A savings and loan association created pursuant to the laws of the United States or the State of Arkansas may act as trustee, and may receive reasonable compensation for so acting, of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under § 401(d) or § 408(a) of the Internal Revenue Code of 1954 if the funds of the trust are invested only in savings accounts or deposits in the association or in obligations or securities issued by the association. However, no association may invest any trust funds in its own common or preferred stock.
- (b) All funds held in a fiduciary capacity by any association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this section.
- (c) A savings and loan association within this state acting pursuant to this section shall not be deemed to be acting as an investment adviser within the meaning of the Arkansas Securities Act, § 23-42-101 et seq.

**HISTORY.** Acts 1975, No. 595, §§ 1, 2; A.S.A. 1947, §§ 67-1867, 67-1868.

**23-37-403. Dividends.**

- (a)
  - (1) After providing for payment of the expenses of operation of the association and for the required minimum transfer to its general loss reserves on each closing day as prescribed by the Supervisor of Savings and Loan Associations, the board of directors of an association may declare a dividend on savings accounts of record on the last business day of March, June, September, and December. The dividends shall be payable as of the dividend date or at a later date not more than thirty (30) days following the dividend date.
  - (2) Dividends shall be declared on the withdrawal value of each savings account at the beginning of the dividend period, plus additions thereto made during the dividend period less amounts withdrawn, which for dividend purposes shall be deducted from the latest previous additions thereto, computed at the declared rate for the time invested.
  - (3) For dividend purposes, the date of investment shall be the date fixed by the board of directors of an association with the approval of the Savings and Loan Association Board [abolished] which shall be not later than thirty (30) days after or prior to the date of actual receipt by the association of an account or an addition to an account.

- (4) Dividends shall be credited to savings accounts on the books of the association unless the association shall have agreed to pay dividends on all or any part of any savings account in cash.
- (5) All savings account holders shall participate equally in dividends pro rata to the withdrawal value of their savings accounts; no association shall be required to pay or credit dividends on accounts of ten dollars (\$10.00) or less.
- (b) With the approval of the Savings and Loan Association Board [abolished], a savings and loan or building and loan association operating under authority of the statutes of Arkansas may pay to the holders of its savings accounts any rate of dividend, or bonus, or special dividend, or classify its savings accounts for the purpose of paying a differential or variable dividend, or adopt any other dividend policy that is authorized for federal associations operating in this state, irrespective of any limitation contained in this chapter or other laws of this state.

**HISTORY.** Acts 1963, No. 227, § 60; 1967, No. 144, § 1; A.S.A. 1947, §§ 67-1860, 67-1860.1.

**23-37-404. Branch offices.**

- (a) The Supervisor of Savings and Loan Associations in either a protested or an unprotested application shall not approve the application for an association to open a branch unless the association satisfactorily establishes that the volume of business in the proposed service area for the branch office is such as to indicate a successful operation.
- (b) An association shall furnish satisfactory evidence to the supervisor that it has opened a branch office for business within one (1) year from:
  - (1) The date the granting of authority for the opening of the branch office is approved by the Supreme Court if the matter is appealed to the Supreme Court; or
  - (2) The date on which the time period for perfecting an appeal from a decision of the supervisor or a lower court approving the granting of authority for opening of the branch office expires.
- (c) (1) If any association fails to open the branch office for business within the one-year period as required by subsection (b) of this section and the supervisor so finds after notice and hearing, the supervisor shall enter an order cancelling the authority for opening of the branch office for business unless good cause is shown for the failure, in which event the supervisor shall grant a reasonable extension of time for opening the branch office for

business, not to exceed one (1) year, to give the association an opportunity to overcome the cause for the delay.

- (2) (A) Parties other than the affected association shall not be heard regarding any extension of authority for opening a branch office.
    - (B) However, any party that appeared before the supervisor protesting the granting of authority for opening the branch office for business shall be notified upon written request of the determination of the supervisor on the extension request.
  - (d) (1) If any association closes a branch office and the branch office remains closed for one (1) year, the supervisor after notice and hearing shall enter an order cancelling the authority for continued operation of that branch unless good cause is shown for the failure to continue operation. In this event the supervisor shall grant a reasonable extension of time for reopening the branch for business, not to exceed one (1) year.
  - (2) Parties other than the affected association shall not be heard regarding any extension of time to reopen the closed branch.
- (e) Any association legally chartered by the proper state authority may establish one (1) or more full service branches, provided that its supervisory authority approves, in the following locations:
  - (1) Anywhere within the county in which the establishing savings and loan association's principal office is located;
  - (2) In addition to the provision of subsection (d) of this section, after December 31, 1993, anywhere within any counties contiguous to the county in which its principal office is located; and
  - (3) After December 31, 1998, anywhere within this state.
- (f) (1) Without regard to the exceptions for location of a branch of an association as provided in this section, an association may purchase the business and assets and assume the liabilities of or merge or consolidate with another association located in any incorporated city or town within this state and operate the acquired association as a branch, provided that a branch shall not be established pursuant to purchase, merger, or consolidation with another association should either association have a de novo charter.
  - (2) (A) As used in this section, “de novo charter” means a charter for an association that has been in existence for less than ten (10) years.
  - (B) However, a de novo charter does not include a charter that is issued in connection with the acquisition of assets and liabilities



from a predecessor financial institution that is acquired through federal or state regulatory action.

- (g) Nothing contained in this section shall be construed to prevent any association from retaining branch locations, wherever located, in operation prior to June 30, 1988.

**HISTORY.** Acts 1975, No. 531, §§ 12, 13; 1979, No. 361, §§ 11, 12; 1981, No. 444, § 3; A.S.A. 1947, §§ 67-1865, 67-1866; Acts 1988 (4th Ex. Sess.), No. 2, § 7; 1988 (4th Ex. Sess.), No. 12, § 7; 2001, No. 1553, § 36.

**23-37-405. Membership charges prohibited.**

- (a) No association shall directly or indirectly charge any membership, admission, withdrawal, or any other fee or sum of money for the privilege of becoming, remaining, or ceasing to be a member of the association, except charges upon the making or modification of a loan.
- (b) No association shall charge any member any sum of money by way of fine or penalty for any cause, except for charges made against borrowers for defaults or prepayments.

**HISTORY.** Acts 1963, No. 227, § 34; A.S.A. 1947, § 67-1834.

**23-37-406. Payment of commission on sale of stock.**

An association shall pay no fee, commission, or other remuneration to any person for the sale of its permanent capital stock without prior approval of the Savings and Loan Association Board [abolished].

**HISTORY.** Acts 1963, No. 227, § 32; 1981, No. 444, § 2; A.S.A. 1947, § 67-1832.

## SUBCHAPTER 5 – SAVINGS ACCOUNTS

- 23-37-501. Accounts of minors.
- 23-37-502. Accounts in the names of two or more persons.
- 23-37-503. Accounts of fiduciaries.
- 23-37-504. Accounts of deceased nonresidents.
- 23-37-505. Withdrawals generally.
- 23-37-506. Conflicting claims to accounts.
- 23-37-507. Damages for refusal to pay withdrawal request.
- 23-37-508. Power of attorney.
- 23-37-509. Lien on account of borrower — Pledge of third party's account as security on loan.
- 23-37-510. Validity of release or acquittance by officers of corporation or association.
- 23-37-511. [Repealed.]
- 23-37-512. Legal investments in accounts.

### **23-37-501. Accounts of minors.**

- (a) An association and any federal association may accept savings accounts from any minor, as the sole and absolute owner of the savings account, and receive payments thereon by or for the owner, and pay withdrawals, accept pledges to the association, and act in any other manner with respect to the accounts on the order of the minor.
- (b) Any payment or delivery of rights to a minor, or a receipt or acquittance signed by a minor shall be a valid and sufficient release and discharge of the association for the payment so made or delivery of rights. The receipt, acquittance, pledge, or other action taken by the minor shall be binding upon the minor with like effect as if he or she were of full age and legal capacity. However, if either parent or guardian of the minor advises an association in writing that the minor shall not have unrestricted authority to deal with his or her savings account, during the minority of the minor, the minor shall not be authorized to deal with his or her savings account except with the joinder of a parent or guardian.
- (c) In the event of the death of the minor, the receipt or acquittance of one (1) parent or the guardian of the minor shall be valid and sufficient discharge of the association.
- (d) With respect to a minor under twelve (12) years of age, the receipt, acquittance, pledge, or other action required by the association may be taken by one (1) parent or the person standing in loco parentis to the minor.

**HISTORY.** Acts 1963, No. 227, § 37; A.S.A. 1947, § 67-1837.

**23-37-502. Accounts in the names of two or more persons.**

Savings accounts may be opened in any association or a federal association in the names of two (2) or more persons, either minor or adult, or a combination of minor and adult, and the savings accounts may be held as follows:

- (1) (A) If the person opening the savings account fails to designate in writing the type of account intended, or if he or she designates in writing to the association that the account is to be a “joint tenancy” account or a “joint tenancy with right of survivorship” account, or that the account shall be payable to the survivors of the persons named in the account, then the account and all additions thereto shall be the property of those persons as joint tenants with right of survivorship.

(B) These savings accounts may be paid to or on the order of any one (1) of the persons during his or her lifetime, unless a contrary written designation is given the association, or to or on the order of any one (1) of the survivors of them after the death of any one (1) or more of them.

(C) The opening of the account in this form shall be conclusive evidence in any action or proceeding to which either the association or the surviving parties is a party, of the intention of all of the parties to the account to vest title to the account and the additions thereto in the survivors.

(D) No association paying any survivor in accordance with the provisions of this section shall thereby be liable for any estate, inheritance, or succession taxes which may be due this state;
- (2) If the savings account is opened in the names of persons who designate themselves to the association as husband and wife, whether or not they are at the time in fact husband and wife, then the account and all additions thereto shall be the property of those persons as tenants by the entirety. Upon the death of one (1) of the persons, the account shall be payable to the survivor;
- (3) If the person opening a savings account designates in writing to the association that the account is to be a “tenants in common” account, then the account and all additions thereto shall be the property of those persons as tenants in common. The association, upon receipt of a specific written notice addressed to the association of the death of either party shall pay, upon the written order of the survivor, to the survivor, his or her pro rata part of the account and to the estate of the deceased owner, the deceased's pro rata part of the account. However, the association may pay the entire account and all additions thereto upon the receipt or acquittance of either party to the account prior to the time that a specific written notice of death is received as provided herein unless there has been filed with the association a written designation that more than one (1) signature is required to deal with the account. In the absence of any written designation to the contrary filed with the

association, all tenants in common accounts shall be deemed to be owned pro rata by the persons named in the account;

- (4) If a savings account is opened in the name of two (2) or more persons, whether as joint tenants, tenants by the entirety, tenants in common, or otherwise, an association shall pay withdrawal requests, accept pledges of the account, recognize the granting of proxies to vote as members of the association, and otherwise deal in any manner with the account upon the direction of any one (1) of the persons named in the account, whether the other persons named in the account are living or not, unless one (1) of the persons named in the account shall, by written instructions delivered to the association, designate that the signature of more than one (1) person shall be required to deal with the savings account; or
- (5) If a person opening or holding a savings account shall execute and file with the association a designation that on the death of the person named as holder the account shall be paid to or held by another person, the account and any balance thereof which exists from time to time shall be held as a payment on death account and unless otherwise agreed between the persons opening the account and the association:
  - (A) Upon the death of the holder of the account, the persons designated by him or her and who have survived him or her shall be the owners of the account as joint tenants with right of survivorship, if more than one (1). Any payment made by the association to any of those persons shall be a complete discharge of the association as to the amount paid;
  - (B) The person to whom the account is issued may change during his or her lifetime the designation of any of the persons who are to be holders at his or her death, by a written direction accepted by the association;
  - (C) The person to whom the account is issued may pledge, withdraw, or receive payment. Any payment made by the association shall be a complete discharge as to the amount paid.

**HISTORY.** Acts 1963, No. 227, § 38; A.S.A. 1947, § 67-1838.

**23-37-503. Accounts of fiduciaries.**

- (a) An association or a federal association may accept savings accounts in the name of any administrator, executor, custodian, guardian, trustee, or other fiduciary, with or without the designation of the name of the beneficiary or the court order creating the fiduciary relationship. The fiduciary shall have power to vote as a member, to open and make additions to, and to withdraw from the savings account in whole or in part.

- (b) (1) The payment or delivery of rights to the fiduciary or a receipt or acquittance signed by the fiduciary to whom any payment or delivery of rights is made shall be a valid and sufficient release and discharge of an association.
- (2) If the savings account is in the name of more than one (1) fiduciary, the payment to only one (1) fiduciary or a receipt or acquittance signed by only one (1) fiduciary to whom any payment is made shall be a valid and sufficient release and discharge of an association for the payment so made, unless the written savings agreement filed with the association provides otherwise.
- (c) Unless the written agreement or court order filed with the association at the time an account is opened by a fiduciary provides otherwise, the association may make loans on the security of the savings account, pay withdrawals to the fiduciary personally or as directed by him or her, and otherwise deal with the account, in whole or in part, without regard to any notice to the contrary, as directed by the fiduciary, so long as the fiduciary is living, or if two (2) or more fiduciaries are designated, so long as one (1) fiduciary is living.
- (d) Whenever a person holding an account in a fiduciary capacity dies and no written notice or order of the circuit court of the revocation or termination of the fiduciary relationship has been given to the association and the association has no written notice of an order of the circuit court of any other disposition of the beneficial estate, the withdrawal value of the account and dividends thereon or other rights relating thereto may, at the option of the association, be paid or delivered, in whole or in part, to the beneficiary, and the association shall have no further liability therefor.

**HISTORY.** Acts 1963, No. 227, § 40; A.S.A. 1947, § 67-1840.

**23-37-504. Accounts of deceased nonresidents.**

- (a) When a savings account is held in any association or federal association by a person residing in another state or country, the account, together with additions thereto and earnings thereon, or any part thereof, may be paid to the administrator or executor appointed in the state or country where the account holder resided at the time of death if the administrator or executor has furnished the association with:
  - (1) Authenticated or certified copies of his or her letters; and
  - (2) An affidavit by the administrator or executor that, to his or her knowledge, no letters then are outstanding in this state and no petition for letters is

pending on the estate in this state, and that there are no creditors of the estate in this state.

- (b) Upon payment or delivery to the representative after receipt of the affidavit and authenticated copies, the association shall be released and discharged to the same extent as if the payment or delivery had been made to a legally qualified resident executor or administrator, and the association shall not be required to see to the application or disposition of the property.
- (c) No action at law or in equity shall be maintained against the association for payment made in accordance with this section.

**HISTORY.** Acts 1963, No. 227, § 42; A.S.A. 1947, § 67-1842.

**23-37-505. Withdrawals generally.**

- (a) Any savings account holder may, at any time, present a written application for withdrawal of all or any part of his or her savings account except to the extent the account may be pledged to the association or to another person on the books of the association.
- (b)
  - (1) An association may pay, in full, each and every withdrawal request as presented, without requiring that written application therefor be made.
  - (2) At any time the board of directors of an association finds it to be in the best interest of the association, the board may, by proper resolution, require a written notice of not exceeding sixty (60) days before paying withdrawals, in which event no withdrawal request shall be paid until the expiration of the time for giving notice fixed by the board of directors.
  - (3) Upon the same day the resolution to require notice is made effective, the association shall notify the Supervisor of Savings and Loan Associations by telephone or telegraph that the resolution is in effect.
- (c)
  - (1) In the event the Savings and Loan Association Board [abolished] makes an affirmative finding that a period of great financial stress or other emergency exists, either generally or in a specific locality in this state, or for a specific association, it may, with the approval of the Governor, restrict the right of an association to pay withdrawals, to the extent and in the manner which the board finds necessary or desirable for the protection of savings account holders and other creditors of the association.
  - (2) Any restriction on the withdrawals from an association may, with like approval, be at any time and from time to time extended, renewed, or modified.

- (3) Any restriction shall be binding upon any association from the time the order of the board imposing the restriction is served on the affected association.
  - (4) The action of the board shall be a complete defense to any action or suit brought against any association on account or by reason of the observance or compliance with the restriction on withdrawals.
  - (5) The board may make and promulgate any rules which shall be required for the conduct of the business of an association for which withdrawals have been restricted pursuant to this subsection, with a view to the protection of the rights of the savings account holders, creditors, and members of the association, both with respect to savings account holders, creditors, and members who were such at the date of the restriction on withdrawals and those becoming savings account holders, creditors, or members after the restrictions have been imposed.
- (d) While an application for withdrawals remains in effect and unpaid, no loan shall be made by an association secured by the pledge of a savings account.
  - (e) An application for withdrawal may be cancelled, in whole or in part, at any time by the holder of a savings account.

**HISTORY.** Acts 1963, No. 227, § 35; A.S.A. 1947, § 67-1835; Acts 2019, No. 315, § 2497.

**23-37-506. Conflicting claims to accounts.**

In the event an association is given notice that conflicting claims of whatever kind and nature exist to the ownership or right to withdraw a savings account, the association may, at its option, without liability, withhold paying any withdrawals from the account until it receives a written withdrawal request executed by all the claimants to the savings account.

**HISTORY.** Acts 1963, No. 227, § 39; A.S.A. 1947, § 67-1839.

**23-37-507. DAMAGES FOR REFUSAL TO PAY WITHDRAWAL REQUEST.**

In the event an association wrongfully and without legal right refuses to pay a withdrawal request for a savings account, the owner of the savings account shall be entitled to recover damages from the association equal to interest at the legal rate prescribed by the laws of this state from the date the withdrawal request was refused. The owner shall not be entitled to recover from the association any special damages of whatever kind or nature.

**HISTORY.** Acts 1963, No. 227, § 46; A.S.A. 1947, § 67-1846.

**23-37-508. Power of attorney.**

An association or a federal association may recognize, or continue to recognize, the authority of an attorney in fact authorized in writing to manage or to make withdrawals, either in whole or in part, from a savings account until it receives written notice of the revocation of the authority of the attorney in fact or until it receives written notice of the death or adjudication of incompetency of the owner of the savings account.

**HISTORY.** Acts 1963, No. 227, § 41; A.S.A. 1947, § 67-1841.

**23-37-509. Lien on account of borrower — Pledge of third party's account as security on loan.**

- (a) Every association operating under this chapter or any federal association shall have a lien, without further agreement or pledge, upon all savings accounts owned by any borrower, or savings accounts subject to withdrawal by any borrower, to secure the payment of any indebtedness of the borrower to the association. Upon default on any loan, the association may, without notice to or consent of the borrower, cancel on its books all or any part of those savings accounts and apply the withdrawal value of the accounts in payment of any indebtedness of the borrower to the association.
- (b) An association may, by written instrument, waive its lien, in whole or in part, on any savings accounts.
- (c) An association may take the pledge of savings accounts of the association owned by a person other than the borrower as security or additional security for any loan made or purchased by the association.

**HISTORY.** Acts 1963, No. 227, § 36; A.S.A. 1947, § 67-1836.

**23-37-510. Validity of release or acquittance by officers of corporation or association.**

A release or acquittance signed by either the president or the secretary of any corporation or any unincorporated association, whether foreign, domestic, charitable, public, or private, or signed by any person purporting to be the president or secretary of the corporation, who opens a savings account in the name of the corporation, shall constitute a valid and sufficient release of any association to the extent of any payment or delivery of rights or property made by the association to a corporation or unincorporated association upon the written direction of the president or secretary unless there has been filed with the association a copy of a resolution of the board of directors or other governing body of the corporation or unincorporated association designating other officers or agents of the corporation or unincorporated association who have the power to act for the corporation or unincorporated association with respect to the savings account.



**History.** Acts 1963, No. 227, § 45; A.S.A. 1947, § 67-1845.

**23-37-511. [Repealed.]**

**23-37-512. Legal investments in accounts.**

- (a) Administrators, executors, guardians, trustees, and other fiduciaries, business corporations, insurance companies and charitable or educational corporations or associations, banks, credit unions, and all other financial institutions, and any person acting as custodian under the Uniform Securities Ownership by Minors Act, § 9-26-301 et seq., are specifically authorized and empowered to invest funds held by them in savings accounts of any association or of any federal association.
- (b) Trustees of any pension, profit, profit-sharing, or retirement trust for employees of any public or private corporation and any person having the care, custody, or control of any funds held for a pension or retirement plan, system, or trust for the employees of this state, or any political subdivision of this state, are specifically authorized and empowered to invest funds held by them in savings accounts of any association or of any federal association to the extent that the savings account does not exceed an amount equal to the sum of all reserve accounts except specific or valuation reserves, undivided profits, surplus, and capital stock, but not including the proceeds of capital notes, debentures, or similar obligations.
- (c) The provisions of this section are supplemental to any and all other laws relating to and declaring what shall be legal investments for the persons, corporations, organizations, and officials referred to in this section.

**HISTORY.** Acts 1963, No. 227, § 43; 1979, No. 361, § 8; A.S.A. 1947, § 67-1843.

## SUBCHAPTER 6 – FOREIGN ASSOCIATIONS

- 23-37-601. Operation in city on state line.
- 23-37-602. Agents, brokers, etc., generally.
- 23-37-603. Broker's license.

### **23-37-601. Operation in city on state line.**

A savings and loan association doing business in a state adjoining this state, in a city or incorporated town which borders on a city or incorporated town in this state and which is divided by a state line other than a navigable stream, may conduct its business in this state if it satisfies all the conditions for the conduct of its business in the adjoining state involved, without further qualification under this chapter. However, in the conduct of its business in this state, it shall be subject to the provisions of this chapter.

**HISTORY.** Acts 1963, No. 227, § 59; A.S.A. 1947, § 67-1859.

### **23-37-602. Agents, brokers, etc., generally.**

Unless acting as an agent for and on behalf of an association, no person, firm, or corporation shall, in this state, unless then licensed therefor pursuant to this chapter:

- (1) Act or hold himself or herself out as an agent, broker, or solicitor for others of savings accounts for foreign savings and loan associations;
- (2) Advertise in this state for the placing of savings accounts in foreign savings and loan associations; or
- (3) Collect, receive, or transmit any funds or take applications for the opening of savings accounts in any foreign savings and loan association.

**HISTORY.** Acts 1963, No. 227, § 13; A.S.A. 1947, § 67-1813.

### **23-37-603. Broker's license.**

- (a) Application for a broker's license shall be made to the Supervisor of Savings and Loan Associations by the applicant and signed and sworn to by the applicant. The form of the application shall be prescribed by the supervisor and shall require full answers to any questions which may reasonably be necessary to determine the applicant's identity, residence, personal history, business record, experience, and other facts required by the supervisor to determine whether the applicant meets the qualifications for the license applied for.

- (b) All applications shall be accompanied by the applicable license fee.
- (c) As a prerequisite to issuing a broker's license, the applicant shall file with the supervisor a bond, in the form prescribed by the supervisor. This bond shall be in the principal amount of twenty thousand dollars (\$20,000) with a corporate surety, conditioned on the faithful performance of the applicant's duties as a broker and the payment of all claims arising out of the performance by the applicant of his or her duties as a broker. The bond shall remain in full force and effect so long as the broker's license is outstanding.
- (d) The supervisor shall promptly issue licenses applied for to persons qualified therefor in accordance with this section. The license shall state the name and address of the licensee, the date of issue, and shall provide for a termination on January 31 of each year.
- (e) For the protection of the people of this state, the supervisor shall not issue, continue, or permit to exist any broker's license except in compliance with this chapter, and as to any person not possessing the following qualifications:
  - (1) The person must be of legal age;
  - (2) The person must be of good character;
  - (3) The person must have filed with the supervisor a bond pursuant to the terms of this section; and
  - (4) The person must have filed with the supervisor copies of all advertisements which the broker proposes to use in this state.

**HISTORY.** Acts 1963, No. 227, §§ 14, 15; A.S.A. 1947, §§ 67-1814, 67-181

## **SUBCHAPTER 7 – CONVERSION, MERGER, ETC.**

- 23-37-701. Conversion of state association into federal association.
- 23-37-702. Conversion of federal association into state association.
- 23-37-703. Conversion of mutual association into stock association.
- 23-37-704. Contemporaneous conversion from federal mutual to state stock association.
- 23-37-705. Reorganization, merger, consolidation, or sale of assets.
- 23-37-706. Federal Savings and Loan Insurance Corporation [abolished] as receiver.

### **23-37-701. Conversion of state association into federal association.**

- (a) Any association subject to this chapter may convert itself into a federal savings and loan association in accordance with the provisions of Section 5 of the Home Owners' Loan Act of 1933, upon a majority vote of the members or stockholders at an annual meeting or any special meeting called to consider that action.
- (b) A copy of the minutes of the proceedings of the meeting of the members or stockholders, verified by the affidavit of the secretary, shall be filed in the office of the Supervisor of Savings and Loan Associations within ten (10) days after the date of the meeting. A sworn copy of the proceedings of the meeting, when so filed, shall be presumptive evidence of the holding and action of the meeting.
- (c) Within three (3) months after the date of the meeting, the association shall take such action, in the manner prescribed and authorized by the laws of the United States, as shall make it a federal savings and loan association.
- (d)
  - (1) There shall be filed with the supervisor a copy of the charter issued to the federal savings and loan association by the Federal Home Loan Bank Board [abolished] or a certificate showing the organization of the association as a federal savings and loan association, certified by the secretary or assistant secretary of the Federal Home Loan Bank Board [abolished].
  - (2) A copy of the charter, or of the certificate, shall be filed by the association with the Secretary of State and with the county clerk of the county in which the home office of the association is located.
- (e) Upon the grant to any association of a charter by the Federal Home Loan Bank Board [abolished], the association receiving the charter shall cease to be an association incorporated under this chapter and shall no longer be subject to the supervision and control of the supervisor and the Savings and Loan Association Board [abolished].
- (f) Upon the conversion of any association into a federal savings and loan association, the corporate existence of the association shall not terminate, but the

federal association shall be deemed to be a continuation of the entity of the association so converted, and all property of the converted association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, shall immediately by operation of law, and without any conveyance or transfer, and without any further act or deed, remain and be vested in and continue and be the property of the federal association into which the state association has converted itself. The federal association shall have, hold, and enjoy the same, in its own right, as fully and to the same extent as the same was possessed, held, and enjoyed by the converting association. The federal association, as of the time of the taking effect of the conversion, shall continue to have and succeed to all the rights, obligations, and relations of the converting association.

- (g) All pending actions and other judicial proceedings to which the converting state association is a party shall not be deemed to have abated or to have been discontinued by reason of the conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if the conversion into the federal association had not been made. The federal association resulting from the conversion may continue the action in its corporate name as a federal association, and any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the converting state association theretofore involved in the judicial proceedings.

**HISTORY.** Acts 1963, No. 227, § 50; A.S.A. 1947, § 67-1850.

**23-37-702. Conversion of federal association into state association.**

- (a) Upon the approval of the Federal Home Loan Bank Board [abolished], or other applicable federal authority, any federal association may convert itself into an association under this chapter upon a majority vote of the members of the federal association cast at an annual meeting or any special meeting called to consider that action.
- (b) Copies of the minutes of the proceedings of the meeting of members, verified by affidavit of the secretary, shall be filed in the office of the Supervisor of Savings and Loan Associations. The verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holding and action of the meeting.
- (c) (1) At the meeting at which conversion is voted upon, the members shall approve bylaws and adopt articles of incorporation and elect the directors who shall be the directors of the state-chartered association after conversion takes effect, provided that the terms and conditions of a

conversion may provide for the directors of the federal association to serve as directors of the converted state-chartered association.

- (2) Copies of the bylaws and articles of incorporation adopted at the meeting, verified by affidavit of the secretary, shall be filed with the office of the supervisor.
- (d) (1) If the bylaws and articles of incorporation are in conformity with the provisions of this chapter, and if a consent or acquiescence in the conversion by the Federal Home Loan Bank Board [abolished] or other applicable authority is filed with the supervisor, he or she shall endorse his or her approval on the articles of incorporation together with the following statement:

“This association is incorporated by conversion from a federal savings and loan association.”
- (2) Upon the supervisor's endorsement of approval, the former federal association shall be an association incorporated under the provisions of this chapter as a direct successor to the federal association.
- (e) All the provisions regarding property and other rights contained in § 23-37-701 shall apply, in reverse order, to the conversion of a federal association into an association incorporated under this chapter so that the state-chartered association shall be a continuation of the corporate entity of the converting federal association and continue to have all of its property and rights.

**HISTORY.** Acts 1963, No. 227, § 51; 1973, No. 292, § 4; A.S.A. 1947, § 67-1851.

**23-37-703. Conversion of mutual association into stock association.**

- (a) With the approval of the Savings and Loan Association Board [abolished], any mutual association may convert into a stock association under this chapter upon a majority vote of the members of the mutual association at an annual or any special meeting called to consider that action.
- (b) Prior to the meeting of the members to consider conversion from a mutual association to a stock association, the board of directors of the mutual association shall file with the Supervisor of Savings and Loan Associations a petition for authority to convert, which shall set forth:
  - (1) The proposed bylaws and articles of incorporation of the stock association;
  - (2) The details of the plan for conversion;

- (3) The form of the notice that will be given to members of the mutual association of the meeting to consider conversion and the time and manner in which the notice will be given;
  - (4) The preemptive rights to subscribe to permanent capital stock in the stock association that will be granted to members;
  - (5) The manner in which permanent capital stock in the stock association will be sold and distributed;
  - (6) The manner of computing the interest of each member in the general and special reserves of the mutual association; and
  - (7) Any other information applicable to the conversion which the supervisor may by rule prescribe.
- (c) Upon the filing of a petition for authority to convert from a mutual association to a stock association, the board shall hold a hearing on the petition and shall issue its certificate of preliminary approval, if the board finds:
- (1) The plan for conversion proposed in the petition is fair and equitable to the members of the mutual association;
  - (2) The notice to the members of the meeting to consider the plan of conversion fairly sets out the rights and obligations of the members under the plan;
  - (3) Under the plan for conversion, each member of the association is given the right to subscribe on a pro rata basis to his or her interest in the mutual association to stock in the resultant stock association, provided, fractional shares shall not be required to be issued;
  - (4) The plan of conversion makes adequate provision for the payment to each member of his or her pro rata interest in any excess special or general reserves of the mutual association;
  - (5) The conversion to a stock association will not impair the mutual association's financial condition or its ability to pay withdrawals of savings accounts or other creditors;
  - (6) The converted stock association would meet the requirements under this chapter for the granting of an original certificate of incorporation to a stock association under this chapter; and

- (7) Not more than twenty-five percent (25%) of the outstanding permanent stock of the converted association, upon conversion, will be owned directly or beneficially by any one (1) individual.
- (d) (1) Upon receipt of a certificate of preliminary approval, the board of directors of the mutual association shall call a meeting of the members to consider the plan of conversion.
- (2) Notice of the meeting shall be given in the form and manner prescribed by the order of the board.
- (3) A copy of the minutes of the proceedings of the meeting of the members, and copies of the articles of incorporation and bylaws adopted by the members, verified by the affidavit of the secretary of the association, shall be filed in the office of the supervisor and shall be presumptive evidence of the holding and actions of the meeting.
- (e) (1) Upon the filing of the documents and the receipt of evidence satisfactory to the supervisor that the plan of conversion approved by the board has been implemented, the supervisor shall endorse his or her approval on the articles of incorporation of the proposed stock association, whereupon the stock association shall become and be deemed to be a stock association under this chapter.
- (2) A copy of the articles of incorporation, bearing the endorsement of approval by the supervisor, shall be filed with the Secretary of State and with the county clerk of the county in which the home office of the association is located.
- (f) Upon the conversion from a mutual association to a stock association, the corporate existence of the association shall not terminate, but the stock association shall be deemed to be a continuation of the entity of the former mutual association. All the provisions regarding property and other rights contained in § 23-37-701 shall apply to the conversion of a mutual association to a stock association so that the stock association shall be a continuation of the corporate entity of the former mutual association and continue to have all of its property and rights.

**HISTORY.** Acts 1963, No. 227, § 52; 1973, No. 292, § 5; A.S.A. 1947, § 67-1852; Acts 2019, No. 315, § 2498.



**23-37-704. Contemporaneous conversion from federal mutual to state stock association.**

- (a) A federal association may file with the Savings and Loan Association Board [abolished] a joint petition for authority to convert from a federal association to a state-chartered association and contemporaneously to convert from a mutual association to a stock association.
- (b) Pursuant to the provisions of § 23-37-703, the board may hold a hearing on the petition and issue its certificate of preliminary approval to a contemporaneous conversion from a federal association to a state-chartered stock association.

**HISTORY.** Acts 1963, No. 227, § 52; 1973, No. 292, § 5; A.S.A. 1947, § 67-1852.

**23-37-705. Reorganization, merger, consolidation, or sale of assets.**

- (a) Pursuant to a plan adopted by the board of directors and approved by the Savings and Loan Association Board [abolished] as being equitable to the members or stockholders of the association and as not impairing the usefulness and success of other properly conducted associations in the vicinity, an association shall have power to reorganize, or to merge or consolidate with, or to sell all or a portion of its assets to another association or a federal association.
- (b) The plan of reorganization, merger or consolidation, or sale shall be approved by a majority vote of the members or stockholders of the affected associations cast at an annual meeting or at any special meeting called to consider such an action.
- (c) In all cases, the corporate continuity of the resulting corporation shall possess the same incidents as that of an association which has converted in accordance with this chapter.

**HISTORY.** Acts 1963, No. 227, § 53; A.S.A. 1947, § 67-1853.

**23-37-706. Federal Savings and Loan Insurance Corporation [abolished] as receiver.**

- (a) The Federal Savings and Loan Insurance Corporation [abolished] is authorized and empowered to act, without bond, as receiver or liquidator of any building and loan or savings and loan association, hereinafter referred to as an “insured association”, which has the insurance protection provided by Title IV of the National Housing Act and which shall have been taken over for liquidation pursuant to the provisions of the laws of this state.
- (b) (1) The appropriate state authority having the right to appoint a receiver or liquidator of the insured association, in the event of the taking over of the insured association for liquidation, shall tender to the Federal Savings and

Loan Insurance Corporation [abolished] the appointment as receiver or liquidator thereof, and, if the Federal Savings and Loan Insurance Corporation [abolished] accepts the appointment, the Federal Savings and Loan Insurance Corporation [abolished] shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator of a savings and loan association, its investors, depositors, and other creditors and shall be subject to all duties of a receiver or liquidator.

- (2) In addition, the Federal Savings and Loan Insurance Corporation [abolished] shall have all the rights, privileges, and powers conferred upon it by federal statutes.
  - (3) The Federal Savings and Loan Insurance Corporation [abolished] may make loans on the security of, or may purchase at public or private sale, and bid at any receiver's sale, and liquidate or sell, any part of the assets of the association of which it is the receiver, and, in the event of the purchase of the assets, it shall bid for and pay a fair and reasonable price.
- (c) Whether or not the Federal Savings and Loan Insurance Corporation [abolished] shall serve as receiver or liquidator of an insured association, whenever it shall pay or make available for payment the liabilities of an insured association in liquidation which are insured by it, it shall be subrogated, upon the surrender and transfer to it of any share, share account, or account insured by it with respect to that share, share account, or account. However, the surrender and transfer of the share account or account shall not affect any right which the transferor thereof may have in any portion of the share, share account, or account which is uninsured or any right to participate in the distribution of the net proceeds remaining from the disposition of the assets of the insured association. The rights of the investors in, and creditors of, the insured association shall be determined in accordance with the applicable provisions of the laws of this state.
- (d) Upon the acceptance by the Federal Savings and Loan Insurance Corporation [abolished] of appointment as a receiver or liquidator, possession of, and title to, all the assets, business, and property of the insured association of every kind and nature shall pass to, and be vested in, the Federal Savings and Loan Insurance Corporation [abolished] as receiver or liquidator.

**HISTORY.** Acts 1939, No. 343, § 3; A.S.A. 1947, § 67-857.

## SUBCHAPTER 9 – REGIONAL SAVINGS AND LOAN ACT OF 1987

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### **23-37-801. Title.**

This subchapter shall be known and may be cited as the “Regional Savings and Loan Act of 1987”.

**HISTORY.** Acts 1987, No. 45, § 1.

### **23-37-802. Definitions.**

As used in this subchapter, unless the context otherwise requires:

- (1) “Acquire”, as applied to an association or a savings and loan holding company, means any of the following actions or transactions:
  - (A) The merger or consolidation of an association with another association or with a savings and loan holding company;
  - (B) The acquisition of the direct or indirect ownership or control of voting shares of another association or savings and loan holding company if, after the acquisition, the acquiring association or savings and loan holding company will directly or indirectly own or control more than ten percent (10%) of any class of voting shares of the acquired association or savings and loan holding company;
  - (C) The direct or indirect acquisition of all or substantially all of the assets of another association or savings and loan holding company; or

- (D) The taking of any other action that would result in the direct or indirect control of another association or savings and loan holding company;
- (2) “Arkansas association” means an association organized under the laws of the State of Arkansas or under the laws of the United States and which:
  - (A) Has its principal place of business in Arkansas;
  - (B) If controlled by an organization, the organization is either an Arkansas association, southern region association, Arkansas savings and loan holding company, or a southern region savings and loan holding company; and
  - (C) Has more than eighty percent (80%) of its total deposits, other than deposits located in branch offices pursuant to § 23-37-811(a), in its branch offices located in one (1) or more of the southern region states;
- (3) “Arkansas savings and loan holding company” means a savings and loan holding company which has:
  - (A) Its principal place of business in Arkansas;
  - (B) Total deposits of its southern region association subsidiaries and Arkansas association subsidiaries that exceed eighty percent (80%) of the total deposits of all association subsidiaries of the savings and loan holding company other than those association subsidiaries held under § 23-37-811(a);
- (4) “Association” means a mutual or capital stock savings and loan association, savings association, building and loan association, or savings bank chartered under the laws of any one of the states or by the Federal Home Loan Bank Board [abolished], pursuant to the Home Owner's Loan Act of 1933, and whose deposits are eligible to be insured by the Federal Savings and Loan Insurance Corporation [abolished];
- (5) “Board” means the Savings and Loan Association Board [abolished];
- (6) “Branch office” means any office at which an association accepts deposits. The term “branch office” does not include:
  - (A) Unmanned automatic teller machines, point-of-sale terminals, or similar unmanned electronic banking facilities at which deposits may be accepted;
  - (B) Offices located outside the United States; and
  - (C) Loan production offices, representative offices, service corporation offices, or other offices at which deposits are not accepted;

- (7) “Company” means any company under the Savings and Loan Holding Company Amendments of 1967;
- (8) “Control” means that which is set forth in the Savings and Loan Holding Company Amendments of 1967;
- (9) “Deposits” means, with respect to an association, withdrawable or repurchaseable shares, investment certificates, deposits, or other savings accounts in an association held by individuals, partnerships, corporations, the United States Government, states and political subdivisions of the United States, and other entities, exclusive of deposits by foreign governments and foreign official institutions, and by other associations. Determination of deposits must be made by reference to regulatory reports of condition or similar reports filed by the association with applicable state or federal regulatory authorities;
- (10) “Federal association” means an association chartered by the Federal Home Loan Bank Board [abolished] pursuant to § 5 of the Home Owner's Loan Act of 1933;
- (11) “Principal place of business” of an association means the state in which the aggregate deposits of the association are the largest. For the purposes of this section, the principal place of business of a savings and loan holding company is the state where the aggregate deposits of the association subsidiaries of the holding company are the largest;
- (12) “Savings and loan holding company” means that which is set forth in the Savings and Loan Holding Company Amendments of 1967;
- (13) “Service corporation” means any corporation, the majority of the capital stock of which is owned by one (1) or more associations and which engages, directly or indirectly, in any activities similar to activities which may be engaged in by a service corporation in which an association may invest under the laws of one (1) of the states or under the laws of the United States;
- (14) “Southern region association” means an association other than an Arkansas association organized under the laws of one (1) of the southern region states or under the laws of the United States and which:
  - (A) Has its principal place of business only in a southern region state other than Arkansas;
  - (B) If controlled by an organization, the organization is either a southern region association or a southern region savings and loan holding company; and

- (C) Has more than eighty percent (80%) of its total deposits other than deposits located in branch offices pursuant to § 23-37-811(a) in its branch offices located in one (1) or more of the southern region states;
- (15) “Southern region savings and loan holding company” means a savings and loan holding company which has:
  - (A) Its principal place of business in a southern region state other than Arkansas;
  - (B) Total deposits of its southern region association subsidiaries and Arkansas association subsidiaries that exceed eighty percent (80%) of the total deposits of all association subsidiaries of the savings and loan holding company other than those association subsidiaries held under § 23-37-811(a);
- (16) “Southern region states” means the states of Arkansas, Tennessee, Missouri, Mississippi, Texas, Louisiana, Oklahoma, Alabama, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia and the District of Columbia;
- (17) “State” means any one (1) of the states of the Union or the District of Columbia;
- (18) “State association” means an association organized under the laws of one (1) of the states; and
- (19) “Subsidiary” means that which is set forth in the Savings and Loan Holding Company Amendments of 1967.

**HISTORY.** Acts 1987, No. 45, § 2; 1987, No. 825, § 1.

**23-37-803. Penalties and remedies.**

- (a) In the event any association or savings and loan holding company consummates an acquisition that is prohibited by this subchapter, the Savings and Loan Association Board [abolished] shall require the association or savings and loan holding company to divest itself within two (2) years of its direct or indirect ownership or control of all Arkansas associations or Arkansas savings and loan holding companies.
- (b) The board shall have the power to enforce the prohibitions contained in these sections through the imposition of fines and penalties, the issuance of cease and desist orders, and such other remedies as are provided by law.

**HISTORY.** Acts 1987, No. 45, § 11.

**23-37-804. Acts requiring prior approval of the board.**

With the prior approval of the Savings and Loan Association Board [abolished] in accordance with § 23-37-807(a) and upon receipt of approval from all other applicable state and federal regulatory authorities having approval authority over the transaction:

- (1) A company may become an Arkansas savings and loan holding company;
- (2) An Arkansas savings and loan holding company may acquire:
  - (A) An Arkansas association or other Arkansas savings and loan holding company;
  - (B) A southern region association or a southern region savings and loan holding company; and
  - (C) An association or savings and loan holding company having association offices which are located outside of the southern region as authorized under § 23-37-811(a);
- (3) A southern region savings and loan holding company may acquire a southern region savings and loan holding company having an Arkansas association subsidiary;
- (4) An Arkansas state association may acquire a southern region association; and
- (5) A southern region association may acquire an Arkansas state association.

**HISTORY.** Acts 1987, No. 45, § 3.

**23-37-805. Acts requiring prior approval of federal authorities.**

With the prior approval of the Federal Home Loan Bank Board [abolished] and other applicable federal authorities in accordance with their approval authority over the transaction and without the necessary approval of the board except for the requirements under § 23-37-810:

- (1) An Arkansas federal association may acquire a southern region association; and
- (2) A southern region association may acquire an Arkansas federal association.

**HISTORY.** Acts 1987, No. 45, § 4.

**23-37-806. Savings and loan holding company acquisitions not requiring prior approval.**

- (a) Without any prior approval of the Savings and Loan Association Board [abolished], a southern region savings and loan holding company having an Arkansas association subsidiary may acquire:
  - (1) A southern region savings and loan holding company that does not have an Arkansas association subsidiary;
  - (2) A southern region association that does not have any branch offices in Arkansas; or
  - (3) To the extent authorized in § 23-37-811(a), an association or savings and loan holding company having association offices which are located outside the southern region.
- (b) The southern region savings and loan holding company shall notify the board at least thirty (30) days prior to the consummation of the proposed transaction. The notification requirements of this section are satisfied by furnishing the board with a copy of the completed application seeking approval for the proposed transaction which is filed with the federal savings and loan regulatory authority.

**HISTORY.** Acts 1987, No. 45, § 5.

**23-37-807. Applications to the board for approval.**

- (a) Whenever an application is filed as required under § 23-37-806, or if approval of the Savings and Loan Association Board [abolished] pursuant to this section is required under § 23-37-810, the board shall approve the transaction if it is otherwise approved as required by applicable laws, and if, in addition:
  - (1) The laws of the state in which the southern region association or southern region savings and loan holding company, as applicable, filing the application has its principal place of business permit Arkansas associations and Arkansas savings and loan holding companies, as applicable, to acquire associations and savings and loan holding companies in that state;
  - (2) Under the laws of the state where it has its principal place of business, the southern region association or southern region savings and loan holding company filing the application could be acquired by the Arkansas association or Arkansas savings and loan holding company, as applicable; and



- (3) Each Arkansas association sought to be acquired directly or indirectly in the proposed transaction has been in existence and continuously operated as an association for a period of five (5) years or more prior to the date the application for approval of the transaction was filed with the board. This requirement does not prohibit a southern region association or southern region savings and loan holding company from acquiring all or substantially all of the ownership of an Arkansas association organized solely for the purpose of facilitating the acquisition of an Arkansas association in existence and continuously operated as an association for the requisite five-year period.
- (b) The board shall rule on any application requiring approval under this section not later than ninety (90) days following the date of acceptance of a completed application seeking approval of the proposed transaction. If the board fails to rule on the application within the requisite ninety-day period, the proposed transaction is approved.
- (c) The applicant is entitled to notice and a hearing contesting the denial by the board of any application.

**HISTORY.** Acts 1987, No. 45, § 6.

**23-37-808. Permissible nondisqualified acquisitions.**

A southern region association, a southern region savings and loan holding company, an Arkansas association, or an Arkansas savings and loan holding company may acquire or control, and does not cease to be a southern region association, a southern region savings and loan holding company, an Arkansas association, or Arkansas savings and loan holding company, respectively, by virtue of its acquisition or control of an association or savings and loan holding company other than as expressly permissible under §§ 23-37-806 and 23-37-807 if:

- (1) Immediately following the consummation of the acquisition, the Arkansas association, Arkansas savings and loan holding company, southern region association, or southern region savings and loan holding company qualifies as such; and
- (2) The association or savings and loan holding company making the application complies with the approval and notification requirements in §§ 23-37-806 and 23-37-807.

**HISTORY.** Acts 1987, No. 45, § 7.

**23-37-809. Prohibited acquisitions.**

- (a) Except as specifically permitted under § 23-37-812, no Arkansas association, Arkansas savings and loan holding company, southern region association, or southern region savings and loan holding company having an Arkansas association subsidiary may acquire an association or savings and loan holding company which is not either an Arkansas savings and loan holding company or a southern region savings and loan holding company or an association which is not either an Arkansas association or a southern region association.
- (b) Except as expressly permitted by federal law, no association which is not either an Arkansas association or a southern region association and no savings and loan holding company which is not either an Arkansas savings and loan holding company or a southern region savings and loan holding company may acquire an Arkansas association, an Arkansas savings and loan holding company, or a southern region savings and loan holding company controlling an Arkansas association.

**HISTORY.** Acts 1987, No. 45, § 8.

**23-37-810. Acquirer of an Arkansas association or Arkansas savings and loan holding company subject to Arkansas laws.**

Any southern region association or southern region savings and loan holding company which directly or indirectly acquires an Arkansas association or an Arkansas savings and loan holding company is subject to all the laws of this state relating to the acquisition, ownership, expansion, and operation of Arkansas associations and Arkansas savings and loan holding companies.

**HISTORY.** Acts 1987, No. 45, § 9.

**23-37-811. Registration of association — Reports — Rules.**

- (a) Each Arkansas association, Arkansas savings and loan holding company, southern region association controlling an Arkansas association, and southern region savings and loan holding company controlling an Arkansas association which engages in a transaction which requires approval of the Savings and Loan Association Board [abolished] pursuant to § 23-37-807 shall, within thirty (30) days after approval of the transaction, initially register and file annually with the board forms prescribed by the board. These forms shall include such information with respect to the financial condition and operations, management, and relations between applicable associations and savings and loan holding companies, and related matters, as the board may consider necessary or appropriate to carry out the purposes of these sections.

- (b) To the extent authorized by law, the board may make examinations of each association or savings and loan holding company required to be registered pursuant to subsection (a) of this section and any service corporation of the association, the cost of which must be assessed against and paid by the association.
- (c) The board may enter into cooperative and reciprocal agreements with the association and savings and loan holding company regulatory authorities of any state or of the United States for the periodic examination of associations and savings and loan holding companies that are required to be registered under the provisions of subsection (a) of this section and may accept reports of examinations and other records from the authorities in lieu of conducting its own examinations.
- (d) The board may establish rules to carry out the purposes of this subchapter.

**HISTORY.** Acts 1987, No. 45, § 10; 2019, No. 315, § 2499.

**23-37-812. Determination of total deposits.**

For purposes of this subchapter, the total deposits of savings and loan associations within the region shall be determined by reference to the records of the Federal Home Loan Bank Board [abolished], Washington D.C.

**HISTORY.** Acts 1987, No. 45, § 13.