

LEGISLATIVE BILL 717

Approved by the Governor March 13, 1978

Introduced by Savage, 10

AN ACT to amend sections 8-302, 8-315 to 8-317, 8-331, and 8-355, Reissue Revised Statutes of Nebraska, 1943, relating to building and loan associations; to delete obsolete references to constitutions; to provide the same advantages as federal savings and loan associations; and to repeal the original sections, and also section 8-307, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 8-302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-302. Any association of not less than five persons, which shall be organized within this state for the purpose of raising money to be loaned among its members, shall be authorized and empowered to levy, assess and collect from its members such sums of money by rates of stated dues, fines, interest and premiums on loans, as the corporation may provide in its constitution articles of incorporation or by-laws, and to exercise such other powers as are hereinafter conferred. Every such corporation may, however, receive payments from its members in any amount, which together with the balance, if any, formerly to the credit of the member thus paying, upon the books of the corporation, shall not exceed the par value of the shares of stock held by him.

Sec. 2. That section 8-315, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-315. The constitution by-laws shall also contain equitable provisions permitting the payment of loans before maturity, as follows: The borrower shall be charged with the full amount of his loan, together with all arrearages due thereon or on the shares pledged, or appertaining to the security given, and shall thereupon be allowed, as a credit, the withdrawal value of the shares pledged as security together with an equitable share of the premium, if any, paid in advance, and such other credits as may be returnable on account thereof, and the balance shall be received by the association in

full settlement and discharge of such loan. The credits on shares pledged in connection with a loan secured by mortgage on real estate, may at any time, and in whole or in part, be appropriated by any association and applied in reduction of such loan. The withdrawal value of shares pledged as a part of a loan transaction, where such loan is secured by mortgage on real estate, shall be the total amount of the payments on such shares as shown by the books of the association, together with such proportionate share of the earnings as the borrower may be entitled to under the by-laws of the association, less the amounts of previous appropriations and applications on the loan and withdrawals, if any. The association shall not 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 authorized by section 8-330. Except as authorized by this section and section 8-316, the association shall not charge any member any sum of money by way of fine or penalty for any cause. Payments on real estate loans shall be applied first to the payment of interest on the unpaid balance of the loan and the remainder on the reduction of principal. Any delinquent real estate taxes, both regular and special, which become a prior lien to the association's mortgage, may be paid by the association and added to the unpaid balance of the loan.

Sec. 3. That section 8-316, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-316. The ~~constitution~~ by-laws shall further provide that if any member has become delinquent in his payment on any shares pledged for the security of any loan from the association, which delinquency shall include delinquent real estate taxes both regular or special irrespective of whether paid by the association and charged to principal or unpaid and a prior lien on the property, and such delinquency represents more than two monthly payments, such shares may be canceled, and he shall, as to such shares, cease to be a member of the association, and the withdrawal value, if any, of such shares at the date of cancellation, shall be credited on his loan. If, after the aforesaid credits, or other credits, a balance remains due the association on account of said loan, it may recover the balance either by the foreclosure and sale of the security given or by an action at law upon the evidence of indebtedness. The withdrawal value of shares pledged as a part of a loan transaction, where such loan is secured by mortgage on real estate, shall be the total amount of the payments on

such shares as shown by the books of the association, together with such proportionate share of earnings as the borrower may be entitled to under the by-laws of the association, less the amounts of previous appropriations and applications on the loan and withdrawals, if any.

Sec. 4. That section 8-317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-317. Certificates of stock or other written evidence thereof shall be issued for each account in conformity with sections 8-301 to 8-345 and the ~~constitution--and~~ by-laws. Every stockholder shall receive credit on the books of the association for all amounts paid by him upon his subscription for stock, together with his pro rata share of all dividends declared, as hereinafter provided, and when the sum of such payments and dividends, less all fines or other charges, shall equal the par value of the shares of stock held by him, he shall be entitled to receive such par value, with such interest not exceeding the legal rate, as the directors may determine, from the time of maturity until paid. Holders of stock thus matured and members desiring to withdraw before such maturity shall be paid the value of their stock in the order of the maturity of or notice of withdrawal of such stock. At no time shall more than two-thirds of the unloaned funds in the treasury of the association, inclusive of such funds applicable to the demands of withdrawing stockholders, as hereinbefore provided, be applicable to the demands of holders of matured stock without the consent of the board of directors.

Sec. 5. That section 8-331, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-331. Every association shall adopt articles of incorporation and by-laws. A copy of the articles of incorporation, ~~constitution,~~ and by-laws of every such association shall be filed in the office of the Department of Banking and Finance, together with an application for a certificate of approval and payment of the examination fee prescribed by section 8-602. The application shall furnish and set forth facts and information desired by the Department of Banking and Finance. The department upon completion of its investigations and its examination of said articles, ~~constitution,~~ by-laws, and application for certificate of approval shall issue a certificate of its approval of such organization and articles of incorporation, ~~constitution,~~ and by-laws; Provided, that no such

certificate of approval shall be issued unless and until the department shall have determined:

(1) That said articles of incorporation, ~~constitution~~, and by-laws conform to the requirements of sections 8-301 to 8-349, and contain a just and equitable plan for the management of the association's business;

(2) That the persons organizing such association are of good character and responsibility;

(3) That in its judgment a need exists for such an institution in the community to be served;

(4) That there is a reasonable probability of its usefulness and success; and

(5) That the same can be established without undue injury to properly conducted existing local building and loan associations.

No such association shall transact any business, except the execution of its articles of incorporation, the adoption of a--~~constitution~~--and by-laws, and the election of directors and officers, until it shall have procured the certificate of approval above provided for. No amendment of the articles of incorporation, ~~constitution~~, or by-laws of any such association shall become operative until a copy of the same has been filed and a certificate of approval obtained as is above provided in regard to original articles of incorporation, ~~constitution~~, and by-laws.

Sec. 6. That section 8-355, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-355. Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of ~~September 2, 1977~~ the effective date of this act by a federal savings and loan association doing business in Nebraska; Provided, that such rights, powers, privileges, benefits and immunities shall not relieve such association from payment of state taxes assessed under any applicable laws of this state.

Sec. 7. That original sections 8-302, 8-315 to 8-317, 8-331, and 8-355, Reissue Revised Statutes of Nebraska, 1943, and also section 8-307, Reissue Revised

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Statutes of Nebraska, 1943, are repealed.

REPEAL OF STATUTES OF NEBRASKA, 1943, BY SECTION 11-248, APRIL 28, 1943.