

534.515 Unincorporated associations.

1. *Statutes applicable.* All unincorporated organizations, associations, societies, partnerships, or individuals conducting and carrying on a business, the purpose of which is to create a fund derived from periodical payments by members of such organizations, associations, societies, or other persons, upon contracts or otherwise, as well as from fines, forfeitures, incidental fees, and payment of premiums and interest; which fund is to be loaned or advanced to members of the organization, associations, society, or to the persons making such periodical payments, for the purpose of enabling them to acquire the ownership or free possession of real estate, or personal property, or to construct buildings, or any or all of such purposes, shall be deemed building and loan associations; and the provisions of this chapter shall apply to all such building and loan associations as far as the same can be made applicable to unincorporated organizations, associations, societies, partnerships, or individuals.

2. *Statement of resources, liabilities, and plan.* Every such unincorporated organization, association, society, partnership, or individual conducting and carrying on the business defined in this section shall, before transacting any business in this state, submit to the executive council a full and complete sworn statement of the resources and liabilities of such organization, association, society, partnership, or individual, and of the proposed plan or method of doing business.

3. *Deposit of securities.* An unincorporated building and loan association shall not carry on its business within this state unless it first deposits with the superintendent at least fifty thousand dollars of first mortgages and negotiable notes in the same amount secured by real estate in the state, bearing interest at a rate not less than five percent per annum, which mortgages shall not exceed one-half the actual value of the real estate upon which they are taken.

4. *Additional deposits.* The superintendent may require that a further amount of such securities be deposited with the superintendent as in the superintendent's judgment is necessary to protect the members of the building and loan association, or the persons making periodical payments to it.

5. *Securities held in trust.* The notes, mortgages, and securities deposited with the superintendent, with all interest and accumulations on them, shall be held in trust by the superintendent for the purpose of fulfilling and carrying out all contracts made by such building and loan associations with their members, and with the persons making periodical payments to them.

6. *Approval certificate of authority.* If the executive council approves the plan or method of business of such a building and loan association, it shall endorse its approval upon the statement of the resources and liabilities and plan of business presented to it, and the statement shall be filed in the office of the superintendent, who shall issue a certificate to the building and loan association to transact business within the state, if the association has deposited with the superintendent the mortgages and securities required by the other provisions of this chapter.

7. *Officers to give bonds approval.* An officer of such a building and loan association who signs or endorses checks, or handles any of the funds or securities of the association, shall give bond or fidelity insurance for the faithful performance of the officer's duty in a sum as the superintendent may require, and no such officer is qualified to enter upon the duties of the office until the officer's bond is approved by, and deposited with, the superintendent. The bond may be increased or additional sureties required by the superintendent if in the superintendent's judgment it becomes necessary to protect the interest of the association or its members, or persons making periodical payments of money to it.

8. *Examination.* The superintendent may at any time the superintendent deems proper make, or cause to be made, an examination of such a building and loan association, or the superintendent may call upon it for a report of its condition upon any given day which has passed, as often as four times each year, which report shall contain the information required in this section.

9. *Expense of examination.* The expense of making an examination shall be paid by the building and loan association, and if made by the superintendent in person the superintendent shall be paid the superintendent's necessary expenses only; if made by an examiner designated by the superintendent, the examiner shall receive not to exceed twenty-five dollars a day for the time employed by the superintendent, and the examiner's necessary expenses.

10. *Annual reports.* On or before the first day of February of each year, every such building and loan association shall file with the superintendent its annual report in writing for the year ending on the thirty-first day of December preceding, giving a complete statement in detail of all of its receipts from all sources, and all disbursements made during the year, arranged and itemized as required by the superintendent. The report shall also show the number of members or persons making periodical payments to the association, the number and amount of loans made to the persons, the interest received from them, the number and amounts of mortgages, contracts, or other securities held by the association, the actual cash value of the real estate securing the mortgages or contracts, the salary paid to each of its officers during the preceding year, the assets and liabilities of the association at the end of the year, and any other matters which in the judgment of the superintendent are required to give the superintendent full information as to the business transacted by the building and loan association.

11. *Failure to furnish reports.* If such a building and loan association fails or refuses to furnish the superintendent the report required in subsection 10, the officers or persons conducting the business of the building and loan association shall forfeit the sum of twenty-five dollars for each day that the report is withheld, and the superintendent may maintain an action, jointly or severally, against them in the name of the state to recover that penalty, and the penalty shall be paid into the state treasury when recovered by the superintendent.

12. *Criminal offenses.* If any officer or agent of any such building and loan association, or any person conducting the business thereof, shall knowingly and willfully swear falsely to any statement in regard to any matter in this chapter required to be made under oath, the person shall be guilty of perjury and punished accordingly. And if any officer, agent or employee of any such association, or any person transacting the business thereof, shall issue, utter, or offer to utter, any warrant, check, order, or promise to pay of such association, or shall sign, transfer, cancel, or surrender any note, bond, draft, mortgage, or other evidence of indebtedness belonging to such association, or shall demand, collect, or receive any money from any member or other person in the name of such association without being authorized so to do, the person shall be guilty of a fraudulent practice; or if any such officer, agent, or employee of such association, or any person transacting the business thereof, shall embezzle, convert to the person's own use, or shall use or pledge for the person's own benefit or purpose, any moneys, securities, credits, or other property belonging to the association, the person shall be guilty of theft; or if the person shall knowingly solicit, transact, or attempt to transact any business for any such association which has not procured and does not hold the certificate of authority from the superintendent to transact business in this state as provided in this section, the person shall be guilty of a serious misdemeanor; or if the person shall knowingly make, or cause to be made, any false entries in the books of the association, or shall, with intent to deceive any person making an examination of such association, as herein provided, exhibit to the person making the examination any false entry, paper, or statement, the person shall be guilty of a fraudulent practice.

13. *Revocation of certificate receiver.* If any such building and loan association holding a certificate of authority to transact business within this state issued by the superintendent as provided in this chapter, shall violate any of the provisions of this chapter, or shall fail to deposit with the superintendent such further amount of mortgages or securities as the superintendent may require under this chapter, the superintendent shall at once revoke the certificate and notify the executive council of its revocation; and under the direction of the executive council, application shall be made by the attorney general to the proper court for the appointment of a receiver to wind up the affairs of the association. In the proceedings the amount due from the borrowing members or persons making periodical payments upon contracts or mortgages given by them shall be ascertained in the manner provided in section 534.405; and the amount owing upon mortgages or

contracts from members of the association or persons making periodical payments to it, shall be treated and considered as due and payable within a reasonable time, to be fixed by the court after the appointment of a receiver.

[S13, § 1920-a1920-j; C24, 27, 31, 35, 39, § **93909402**; C46, 50, 54, 58, § 534.89534.101; C62, 66, 71, 73, 75, 77, 79, 81, § 534.66]

C85, § 534.515

88 Acts, ch 1158, §86

Footnotes

Similar provision, § 534.606