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SENATE FILE 119

By COMMITTEE ON COMMERCE  
*Approved 2/10 (394)*

Passed Senate, Date 2-25-77 (7451) Passed House, Date 4-25-77 (P.1608)  
Vote: Ayes 43 Nays 2 Vote: Ayes 90 Nays 2  
Approved May 12, 1977

### A BILL FOR

1 An Act relating to the regulation of savings and loan  
2 associations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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S.F. 119

S-3097

1 Amend Senate File 119, page 1, by striking lines  
2 18 through 21 and inserting in lieu thereof the  
3 following: "ten years beyond the maturity date of the  
4 loan and provided further that in event of default, the  
5 real estate described in such leasehold interest could  
6 be subjected to the satisfaction of the lease with the  
7 same priority."

S-3097 FILED & ADOPTED(450) BY PHILIP B. HILL  
FEBRUARY 25, 1977 BERL E. PRIEBE

1 Section 1. Section five hundred thirty-four point two  
2 (534.2), subsection fourteen (14), Code 1977, is amended to  
3 read as follows:

4 14. "Real estate loan" shall mean any loan or other  
5 obligation secured by real estate, whether in fee or in a  
6 leasehold extending or renewable automatically for a period  
7 of at least fifty years or ten years beyond the maturity date  
8 of the loan.

9 Sec. 2. Section five hundred thirty-four point twenty-  
10 one (534.21), subsection twelve (12), Code 1977, is amended  
11 to read as follows:

12 12. LOANS ON LEASEHOLD. An association may also make  
13 loans on leasehold interests, under the same terms as above  
14 provided for other loans, if said leasehold interest extends  
15 or is automatically renewable at the option of the holder,  
16 or at the option of the association, for a period of at least  
17 fifty years from the date the loan is executed but or at least  
18 ten years beyond the maturity date of the loan and provided  
19 further that, in event of default, the real estate described  
20 in such leasehold interest could be subjected to the  
21 satisfaction of the debt with the same priority.

22 Sec. 3. Section five hundred thirty-four point twelve  
23 (534.12), subsection one (1), Code 1977, is amended to read  
24 as follows:

25 1. VOTING. Each member shall have one vote for each one  
26 hundred dollars of net equity above share loans in his or  
27 her share account owned and held by him or her at any election,  
28 and may vote the same by proxy, but no person shall vote more  
29 than ten percent of the savings liability at the time of said  
30 election excepting that proxies held and voted by an individual  
31 member or a proxy committee shall not be included in said  
32 ten percent limitation. Every proxy shall be in writing and  
33 shall, unless otherwise specified in the proxy, continue in  
34 force for eleven months from the date thereof. No proxies  
35 shall be voted at any meeting unless such proxies have been

1 on file with the secretary of the association for verification  
2 at least five days before the date of the meeting. Anyone  
3 depositing or transferring savings as collateral security  
4 shall be deemed the owner of such share account within the  
5 meaning of this section. Notice of the regular annual meeting  
6 of members of an association shall be given by publishing  
7 said notice in a newspaper of general circulation in the  
8 county in which the office of said association is located  
9 at least thirty days before the date set for said annual  
10 meeting. Proxies may be revoked by any member upon written  
11 notice to the secretary of an association; by execution of  
12 a written proxy to another agent; or by personal attendance  
13 by the member at the members' meetings. Each member as defined  
14 by section 534.2, subsection 8, shall, regardless of shares,  
15 be entitled to at least one vote at any members' meeting.

16 Sec. 4. Section five hundred thirty-four point nineteen  
17 (534.19), subsection nine (9), Code 1977, is amended to read  
18 as follows:

19 9. SERVICING LOANS. To service mortgages and real estate  
20 contracts subject to such regulations and restrictions as  
21 may be prescribed by the supervisor, ~~provided such mortgages~~  
22 ~~originally are made by such association and subsequently sold.~~  
23 ~~The maximum principal amount of mortgages thus serviced by~~  
24 ~~an association at any one time shall not exceed twenty-five~~  
25 ~~percent of the amount of the savings liability of such~~  
26 ~~association. -- To service contracts for sale of real estate,~~  
27 ~~provided that one of the parties to said contract is a member~~  
28 ~~of the servicing association and that such association shall~~  
29 ~~not undertake in connection with such servicing to be~~  
30 ~~responsible for more than bookkeeping or other perfunctory~~  
31 ~~services in connection herewith.~~

32 Sec. 5. Section five hundred thirty-four point twenty-  
33 one (534.21), subsection two (2), Code 1977, is amended to  
34 read as follows:

35 2. TERMS OF LOANS. All installment loans shall be re-

1 payable within thirty years or, if an insured or guaranteed  
2 loan, within the period acceptable to the insuring or guaran-  
3 teeing agency. Loans of any type that such an association  
4 may make on a monthly installment basis may also be made  
5 without full amortization of principal; provided, that except  
6 for insured or guaranteed loans, interest shall be payable  
7 at least semiannually and any such loan may be made for an  
8 amount not in excess of fifty seventy percent of the value  
9 and for a term of not more than five three years:--And-provided  
10 further,--that-if-the-members-have-authorized-loans-to-be-made  
11 without-full-amortization-up-to-such-higher-percentage-such  
12 loans-may-be-made-for-an-amount-not-in-excess-of-sixty-percent  
13 of-the-value-and-for-a-term-of-not-more-than-three-years:  
14 And-provided-further,--that-if-the-members-have-authorized  
15 loans-to-be-made-without-full-amortization-up-to-such-higher  
16 percentage,--such. Such loans, if made, for the purpose of  
17 construction, may be made for an amount not in excess of  
18 eighty percent of the value and for a term of not more than  
19 eighteen months. A construction loan may be combined with  
20 an installment loan in one note, provided the total term does  
21 not exceed thirty-one years and six months. Loans, other  
22 than home loans, may be made on a monthly installment basis  
23 with a final principal payment in an amount larger than preced-  
24 ing principal payments. Loans with principal and interest  
25 payments less than monthly but at least annually may be made  
26 with the same terms as monthly installment loans for an amount  
27 not in excess of eighty percent of value.

28 Sec. 6. Section five hundred thirty-four point twenty-  
29 one (534.21), subsections three (3) and four (4), Code 1977,  
30 are amended to read as follows:

31 3. HOME LOANS. Every such association may originate and  
32 make first mortgage amortized real estate loans ~~for-not-to~~  
33 ~~exceed-fifty-thousand-dollars~~ secured by home property situated  
34 within the regular lending area. ~~Home-loans-may-be-made-in~~  
35 ~~excess-of-the-fifty-thousand-dollar-limitation-when-made-under~~

1 ~~the forty percent of assets lending power hereinafter set~~  
2 ~~out.~~

3 4. OTHER LOANS. Every such association may use an  
4 aggregate amount not exceeding forty percent of the assets  
5 at the time of such use, or a larger amount with the approval  
6 of the supervisor, to make loans as follows:

7 ~~a. Home loans, which are either direct reduction home~~  
8 ~~loans or not, but which exceed fifty thousand dollars each,~~  
9 ~~regardless of where the home property securing the loan is~~  
10 ~~situated.~~

11 b a. Home loans of any amount, which are direct-reduction  
12 home loans, but which are secured by home property situated  
13 beyond the regular lending area.

14 e b. Home loans of any amount which are not direct-  
15 reduction home loans, regardless of where the home property  
16 securing the loan is situated.

17 d c. Other real estate loans, whether amortized or unamor-  
18 tized, regardless of amount thereof or location of real estate  
19 securing the loan.

20 e d. First mortgage loans insured by an instrumentality  
21 of the United States government or first mortgage loans insured  
22 by an approved mortgage insurance company doing business in  
23 the state of Iowa shall be exempt from the provisions of the  
24 forty percent of assets lending power.

25 This power is herein referred to as the "forty percent  
26 of assets lending power." A subsequent reduction of savings  
27 liability shall not affect in any way outstanding loans made  
28 under the forty percent of assets lending power.

29 Sec. 7. Section five hundred thirty-four point twenty-  
30 one (534.21), subsection ten (10), Code 1977, is amended to  
31 read as follows:

32 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans  
33 on one to four family dwellings may be repaid in part or in  
34 full at any time, excepting that the association may charge  
35 not to exceed six months advance interest on that part of

1 the aggregate amount of all prepayments made on such loan  
2 in any twelve-month period which exceeds twenty percent of  
3 the original principal amount of the loan; and may charge  
4 any negotiated rate ~~not-to-exceed-three-percent-of-the-original~~  
5 ~~principal-for-prepayment~~ on other loans during-the-first-three  
6 ~~years-of-said-loans,-after-which-time-the-association-may~~  
7 ~~charge-as-above-provided-for-on-one-to-four-family-dwellings.~~

8 Sec. 8. Section five hundred thirty-four point forty-three  
9 (534.43), Code 1977, is amended to read as follows:

10 534.43 RESERVE FOR CONTINGENCIES. As of June 30 thirtieth  
11 and December 31 thirty-first of each year, before declaring  
12 any dividends, the board of directors shall transfer and  
13 credit to a general reserve account an amount equivalent to  
14 not less than two percent of the net earnings of the  
15 association for the preceding six months, called the  
16 "accounting period", such transfers to be made at the end  
17 of each six months accounting period, until such general  
18 reserve account is equal to at least five percent of the total  
19 amount paid in by members and credited on share accounts.  
20 The above action shall be taken March 31 thirty-first, June  
21 30 thirtieth, September 30 thirtieth and December 31 thirty-  
22 first of each year and the dividends and reserve periods  
23 correspondingly adjusted if dividends are paid quarterly.  
24 If at any time thereafter such general reserve account shall  
25 on account of losses be reduced to less than five percent  
26 of the amount paid in and credited on share accounts, such  
27 transfers and credits thereto shall be resumed and continued  
28 until such reserve is again equal to at least five percent  
29 of the total amount paid in and credited on share accounts  
30 of members. The reserve account so established shall at all  
31 times be maintained and used for the sole purpose of absorbing  
32 losses incurred by the association and for no other purposes.  
33 An association may establish such other and additional special  
34 reserves as may be ordered by its board of directors. An  
35 association as an optional method may close its books on a

1 fiscal year base with one transfer to reserves at the  
2 conclusion of the fiscal year. Except as permitted by the  
3 federal savings and loan insurance corporation or when the  
4 general reserve account is in excess of five percent of total  
5 savings, the percent of the general reserve account to total  
6 savings shall not be reduced due to an increase in savings.

7 Sec. 9. Section five hundred thirty-four point forty-eight  
8 (534.48), Code 1977, is amended to read as follows:

9 534.48 FOREIGN ASSOCIATIONS. If any foreign building  
10 and loan or savings and loan association, as in this chapter  
11 defined, desires to transact business within this state, it  
12 shall furnish to the state executive council a certified copy  
13 of its articles of incorporation, or charter and bylaws, and  
14 a certified copy of the state laws under which it is organized,  
15 together with a report for the year next preceding, verified  
16 by its president, vice president, secretary, and at least  
17 three directors, which report shall show:

18 1. The amount of its authorized savings liability and  
19 the par value of its shares, if any.

20 2. The increase in savings liability.

21 3. The withdrawal from savings liability during the year.

22 4. The amount of savings liability in force at the end  
23 of the year.

24 5. A detailed statement of all funds received during the  
25 year and all disbursements.

26 6. The salaries paid each of its officers.

27 7. A detailed statement of its assets and liabilities  
28 at the end of such year and the nature thereof.

29 8. Any The requirements of section five hundred thirty-  
30 four point three (534.3), subsection three (3), paragraph  
31 a, of the Code for a domestic association desiring to establish  
32 an office and any other matters of fact which the council  
33 may require.

34 As used in this section, to transact business shall mean  
35 to have an office, agency or agent in this state.

1 Sec. 10. Section five hundred thirty-four point sixty-  
2 two (534.62), Code 1977, is amended to read as follows:

3 534.62 DISCRIMINATION IN FOREIGN STATES. When by the  
4 laws of any other state, territory, country or nation, or  
5 by the decision or rulings of the appropriate and proper  
6 officers thereof, any greater taxes, fines, penalties,  
7 licenses, fees, deposits of money or other securities, or  
8 other obligations or prohibitions, are demanded of building  
9 and loan or savings and loan associations of this state, as  
10 a condition to be complied with before doing business or  
11 granting loans in this that state, so long as such laws  
12 continue in force, the same requirements, obligations, and  
13 prohibitions of whatever kind shall be imposed on all building  
14 and loan or savings and loan associations of such other state,  
15 territory, country or nation doing business in this state,  
16 and upon their agents. It is hereby made the duty of the  
17 auditor of state to enforce the provisions of this section.

18 Sec. 11. This Act is effective January 1, 1978.

19 EXPLANATION

20 This bill modifies chapter 534 relating to savings and  
21 loan associations in several respects:

22 Sections 1 and 2 modify an association's lending powers  
23 with respect to real property occupied by the borrower pursuant  
24 to a lease so that a loan may be secured by a leasehold if  
25 the term of the lease extends at least ten years beyond the  
26 maturity date of the loan. This would make Iowa law equivalent  
27 to federal provisions which regulate federally-chartered  
28 associations.

29 Section 3 relates to voting rights of members, and the  
30 amendment will correct a situation where a director of a small  
31 association is able to get a share loan against his savings  
32 account, reinvest the proceeds of that loan in another share  
33 account, and then repeat the process, conceivably without  
34 limit. The director thereby increases his or her voting  
35 rights and, alone or with another director, controls the

1 board. If amended, this section would read essentially the  
2 same as the regulation for federal associations.

3 Section 4, relating to loan servicing powers removes the  
4 requirement that a serviced mortgage must be originated by  
5 the association and that a party to a serviced contract must  
6 be a member of the association. It also removes the 25 per-  
7 cent of savings limit for the amount of mortgages that can  
8 be serviced. By allowing an association to service more mort-  
9 gages, more funds can be generated to be available for home  
10 loans. The regulation for federal associations allows those  
11 associations to service mortgages with no dollar limit.

12 Section 5 amends provisions relating to installment loans  
13 in order to simplify the straight loan limits by allowing  
14 70 percent loans for three years with semi-annual interest  
15 payments, allow balloon loans on other than home loans and  
16 help persons with seasonal incomes buy homes by allowing  
17 annual or semi-annual payments. The amendment would place  
18 the Code more in agreement with what is permitted by federal  
19 regulations.

20 Section 6 amends section 534.21 of the Code as it relates  
21 to the maximum dollar limitations on loans. The dollar limit  
22 contained in subsections 3 and 4 is the same as the federal  
23 limit and has been amended at least twice. Federal authorities  
24 are now considering raising it again. Savings and loan asso-  
25 ciations have no history of loss on more expensive houses  
26 and these loans can be made under the forty percent of assets  
27 classification anyway. Inflation in the prices of homes  
28 suggests that any amendment in dollar amount would only be  
29 temporary. The proposed amendment of eliminating the dollar  
30 amount would preclude the need for periodic amendment in the  
31 future.

32 Section 7 provides that prepayment penalties on loans other  
33 than home loans shall be a matter of contract between the  
34 lender and borrower. The maximum penalty as it now exists  
35 is greater for a home than for commercial property. If

1 amended, the Code would agree with the federal regulation.

2 Section 8 clarifies the authority to use a three-year or  
3 five-year averaging of savings for reserve purposes which  
4 the FSLIC allows. It also corrects a situation with uninsured  
5 associations where the reserve account never has been five  
6 percent of savings and never will be. They are required to  
7 put two percent of earnings into the reserve but have no  
8 "benchmark" requirements. A benchmark requirement means that  
9 reserves shall be a certain percentage of savings by a certain  
10 date. As this section now exists, the percentage of reserves  
11 to savings can legally dwindle. This amendment would place  
12 our Code in agreement with the federal regulation.

13 Section 9 amends section 534.48 to require an out-of-state  
14 association to show the same need as a domestic association  
15 for opening an office in this state. They do not have to  
16 do so under the present requirements. It also clarifies that  
17 doing business is not the granting of loans.

18 Section 10 is related to the amendment contained in sec-  
19 tion 9, and amends the section relating to reciprocity of  
20 state laws to reflect that "transacting business" and "granting  
21 loans" are subject to different restrictions.

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1 Section 1. Section five hundred thirty-four point two  
2 (534.2), subsection fourteen (14), Code 1977, is amended to  
3 read as follows:

4 14. "Real estate loan" shall mean any loan or other  
5 obligation secured by real estate, whether in fee or in a  
6 leasehold extending or renewable automatically for a period  
7 of at least fifty years or ten years beyond the maturity date  
8 of the loan.

9 Sec. 2. Section five hundred thirty-four point twenty-  
10 one (534.21), subsection twelve (12), Code 1977, is amended  
11 to read as follows:

12 12. LOANS ON LEASEHOLD. An association may also make  
13 loans on leasehold interests, under the same terms as above  
14 provided for other loans, if said leasehold interest extends  
15 or is automatically renewable at the option of the holder,  
16 or at the option of the association, for a period of at least  
17 fifty years from the date the loan is executed but or at least  
18 ten years beyond the maturity date of the loan and provided  
19 further that, in event of default, the real estate described  
20 in such leasehold interest could be subjected to the  
21 satisfaction of the debt with the same priority.

22 Sec. 3. Section five hundred thirty-four point twelve  
23 (534.12), subsection one (1), Code 1977, is amended to read  
24 as follows:

25 1. VOTING. Each member shall have one vote for each one  
26 hundred dollars of net equity above share loans in his or  
27 her share account owned and held by him or her at any election,  
28 and may vote the same by proxy, but no person shall vote more  
29 than ten percent of the savings liability at the time of said  
30 election excepting that proxies held and voted by an individual  
31 member or a proxy committee shall not be included in said  
32 ten percent limitation. Every proxy shall be in writing and  
33 shall, unless otherwise specified in the proxy, continue in  
34 force for eleven months from the date thereof. No proxies  
35 shall be voted at any meeting unless such proxies have been

1 on file with the secretary of the association for verification  
 2 at least five days before the date of the meeting. Anyone  
 3 depositing or transferring savings as collateral security  
 4 shall be deemed the owner of such share account within the  
 5 meaning of this section. Notice of the regular annual meeting  
 6 of members of an association shall be given by publishing  
 7 said notice in a newspaper of general circulation in the  
 8 county in which the office of said association is located  
 9 at least thirty days before the date set for said annual  
 10 meeting. Proxies may be revoked by any member upon written  
 11 notice to the secretary of an association; by execution of  
 12 a written proxy to another agent; or by personal attendance  
 13 by the member at the members' meetings. Each member as defined  
 14 by section 534.2, subsection 8, shall, regardless of shares,  
 15 be entitled to at least one vote at any members' meeting.

16 Sec. 4. Section five hundred thirty-four point nineteen  
 17 (534.19), subsection nine (9), Code 1977, is amended to read  
 18 as follows:

19 9. SERVICING LOANS. To service mortgages and real estate  
 20 contracts subject to such regulations and restrictions as  
 21 may be prescribed by the supervisor, ~~provided such mortgages~~  
 22 ~~originally are made by such association and subsequently sold.~~  
 23 ~~The maximum principal amount of mortgages thus serviced by~~  
 24 ~~an association at any one time shall not exceed twenty-five~~  
 25 ~~percent of the amount of the savings liability of such~~  
 26 ~~association. To service contracts for sale of real estate,~~  
 27 ~~provided that one of the parties to said contract is a member~~  
 28 ~~of the servicing association and that such association shall~~  
 29 ~~not undertake in connection with such servicing to be~~  
 30 ~~responsible for more than bookkeeping or other perfunctory~~  
 31 ~~services in connection herewith.~~

32 Sec. 5. Section five hundred thirty-four point twenty-  
 33 one (534.21), subsection two (2), Code 1977, is amended to  
 34 read as follows:

35 2. TERMS OF LOANS. All installment loans shall be re-

1 payable within thirty years or, if an insured or guaranteed  
2 loan, within the period acceptable to the insuring or guaran-  
3 teeing agency. Loans of any type that such an association  
4 may make on a monthly installment basis may also be made  
5 without full amortization of principal; provided, that except  
6 for insured or guaranteed loans, interest shall be payable  
7 at least semiannually and any such loan may be made for an  
8 amount not in excess of fifty seventy percent of the value  
9 and for a term of not more than five three years:--~~And provided~~  
10 ~~further, that if the members have authorized loans to be made~~  
11 ~~without full amortization up to such higher percentage such~~  
12 ~~loans may be made for an amount not in excess of sixty percent~~  
13 ~~of the value and for a term of not more than three years:~~  
14 ~~And provided further, that if the members have authorized~~  
15 ~~loans to be made without full amortization up to such higher~~  
16 ~~percentage, such.~~ Such loans, if made, for the purpose of  
17 construction, may be made for an amount not in excess of  
18 eighty percent of the value and for a term of not more than  
19 eighteen months. A construction loan may be combined with  
20 an installment loan in one note, provided the total term does  
21 not exceed thirty-one years and six months. Loans, other  
22 than home loans, may be made on a monthly installment basis  
23 with a final principal payment in an amount larger than preced-  
24 ing principal payments. Loans with principal and interest  
25 payments less than monthly but at least annually may be made  
26 with the same terms as monthly installment loans for an amount  
27 not in excess of eighty percent of value.

28 Sec. 6. Section five hundred thirty-four point twenty-  
29 one (534.21), subsections three (3) and four (4), Code 1977,  
30 are amended to read as follows:

31 3. HOME LOANS. Every such association may originate and  
32 make first mortgage amortized real estate loans ~~for not to~~  
33 ~~exceed fifty thousand dollars~~ secured by home property situated  
34 within the regular lending area. ~~home loans may be made in~~  
35 ~~excess of the fifty thousand dollar limitation when made under~~

1 the forty percent of assets lending power hereinafter set  
2 out:

3 4. OTHER LOANS. Every such association may use an  
4 aggregate amount not exceeding forty percent of the assets  
5 at the time of such use, or a larger amount with the approval  
6 of the supervisor, to make loans as follows:

7 ~~a. Home loans, which are either direct reduction home~~  
8 ~~loans or not, but which exceed fifty thousand dollars each,~~  
9 ~~regardless of where the home property securing the loan is~~  
10 ~~situated.~~

11 b a. Home loans of any amount, which are direct reduction  
12 home loans, but which are secured by home property situated  
13 beyond the regular lending area.

14 e b. Home loans of any amount which are not direct-  
15 reduction home loans, regardless of where the home property  
16 securing the loan is situated.

17 d c. Other real estate loans, whether amortized or unamor-  
18 tized, regardless of amount thereof or location of real estate  
19 securing the loan.

20 e d. First mortgage loans insured by an instrumentality  
21 of the United States government or first mortgage loans insured  
22 by an approved mortgage insurance company doing business in  
23 the state of Iowa shall be exempt from the provisions of the  
24 forty percent of assets lending power.

25 This power is herein referred to as the "forty percent  
26 of assets lending power." A subsequent reduction of savings  
27 liability shall not affect in any way outstanding loans made  
28 under the forty percent of assets lending power.

29 Sec. 7. Section five hundred thirty-four point twenty-  
30 one (534.21), subsection ten (10), Code 1977, is amended to  
31 read as follows:

32 10. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans  
33 on one to four family dwellings may be repaid in part or in  
34 full at any time, excepting that the association may charge  
35 not to exceed six months advance interest on that part of

1 the aggregate amount of all prepayments made on such loan  
2 in any twelve-month period which exceeds twenty percent of  
3 the original principal amount of the loan; and may charge  
4 any negotiated rate ~~not-to-exceed-three-percent-of-the-original~~  
5 ~~principal-for-prepayment~~ on other loans ~~during-the-first-three~~  
6 ~~years-of-said-loans,-after-which-time-the-association-may~~  
7 ~~charge-as-above-provided-for-on-one-to-four-family-dwellings.~~

8 Sec. 8. Section five hundred thirty-four point forty-three  
9 (534.43), Code 1977, is amended to read as follows:

10 534.43 RESERVE FOR CONTINGENCIES. As of June 30 ~~thirtieth~~  
11 and December 31 ~~thirty-first~~ of each year, before declaring  
12 any dividends, the board of directors shall transfer and  
13 credit to a general reserve account an amount equivalent to  
14 not less than two percent of the net earnings of the  
15 association for the preceding six months, called the  
16 "accounting period", such transfers to be made at the end  
17 of each six months accounting period, until such general  
18 reserve account is equal to at least five percent of the total  
19 amount paid in by members and credited on share accounts.  
20 The above action shall be taken March 31 ~~thirty-first~~, June  
21 30 ~~thirtieth~~, September 30 ~~thirtieth~~ and December 31 ~~thirty-~~  
22 ~~first~~ of each year and the dividends and reserve periods  
23 correspondingly adjusted if dividends are paid quarterly.  
24 If at any time thereafter such general reserve account shall  
25 on account of losses be reduced to less than five percent  
26 of the amount paid in and credited on share accounts, such  
27 transfers and credits thereto shall be resumed and continued  
28 until such reserve is again equal to at least five percent  
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30 of members. The reserve account so established shall at all  
31 times be maintained and used for the sole purpose of absorbing  
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33 An association may establish such other and additional special  
34 reserves as may be ordered by its board of directors. An  
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1 fiscal year base with one transfer to reserves at the  
2 conclusion of the fiscal year. Except as permitted by the  
3 federal savings and loan insurance corporation or when the  
4 general reserve account is in excess of five percent of total  
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7 Sec. 9. Section five hundred thirty-four point forty-eight  
8 (534.48), Code 1977, is amended to read as follows:

9 534.48 FOREIGN ASSOCIATIONS. If any foreign building  
10 and loan or savings and loan association, as in this chapter  
11 defined, desires to transact business within this state, it  
12 shall furnish to the state executive council a certified copy  
13 of its articles of incorporation, or charter and bylaws, and  
14 a certified copy of the state laws under which it is organized,  
15 together with a report for the year next preceding, verified  
16 by its president, vice president, secretary, and at least  
17 three directors, which report shall show:

18 1. The amount of its authorized savings liability and  
19 the par value of its shares, if any.

20 2. The increase in savings liability.

21 3. The withdrawal from savings liability during the year.

22 4. The amount of savings liability in force at the end  
23 of the year.

24 5. A detailed statement of all funds received during the  
25 year and all disbursements.

26 6. The salaries paid each of its officers.

27 7. A detailed statement of its assets and liabilities  
28 at the end of such year and the nature thereof.

29 8. ~~Any~~ The requirements of section five hundred thirty-  
30 four point three (534.3), subsection three (3), paragraph  
31 a, of the Code for a domestic association desiring to establish  
32 an office and any other matters of fact which the council  
33 may require.

34 As used in this section, to transact business shall mean  
35 to have an office, agency or agent in this state.

1 Sec. 10. Section five hundred thirty-four point sixty-  
2 two (534.62), Code 1977, is amended to read as follows:

3 534.62 DISCRIMINATION IN FOREIGN STATES. When by the  
4 laws of any other state, territory, country or nation, or  
5 by the decision or rulings of the appropriate and proper  
6 officers thereof, any greater taxes, fines, penalties,  
7 licenses, fees, deposits of money or other securities, or  
8 other obligations or prohibitions, are demanded of building  
9 and loan or savings and loan associations of this state, as  
10 a condition to be complied with before doing business or  
11 granting loans in ~~this~~ that state, so long as such laws  
12 continue in force, the same requirements, obligations, and  
13 prohibitions of whatever kind shall be imposed on all building  
14 and loan or savings and loan associations of such other state,  
15 territory, country or nation doing business in this state,  
16 and upon their agents. It is hereby made the duty of the  
17 auditor of state to enforce the provisions of this section.

18 Sec. 11. This Act is effective January 1, 1978.

19 EXPLANATION

20 This bill modifies chapter 534 relating to savings and  
21 loan associations in several respects:

22 Sections 1 and 2 modify an association's lending powers  
23 with respect to real property occupied by the borrower pursuant  
24 to a lease so that a loan may be secured by a leasehold if  
25 the term of the lease extends at least ten years beyond the  
26 maturity date of the loan. This would make Iowa law equivalent  
27 to federal provisions which regulate federally-chartered  
28 associations.

29 Section 3 relates to voting rights of members, and the  
30 amendment will correct a situation where a director of a small  
31 association is able to get a share loan against his savings  
32 account, reinvest the proceeds of that loan in another share  
33 account, and then repeat the process, conceivably without  
34 limit. The director thereby increases his or her voting  
35 rights and, alone or with another director, controls the

1 board. If amended, this section would read essentially the  
2 same as the regulation for federal associations.

3 Section 4, relating to loan servicing powers removes the  
4 requirement that a serviced mortgage must be originated by  
5 the association and that a party to a serviced contract must  
6 be a member of the association. It also removes the 25 per-  
7 cent of savings limit for the amount of mortgages that can  
8 be serviced. By allowing an association to service more mort-  
9 gages, more funds can be generated to be available for home  
10 loans. The regulation for federal associations allows those  
11 associations to service mortgages with no dollar limit.

12 Section 5 amends provisions relating to installment loans  
13 in order to simplify the straight loan limits by allowing  
14 70 percent loans for three years with semi-annual interest  
15 payments, allow balloon loans on other than home loans and  
16 help persons with seasonal incomes buy homes by allowing  
17 annual or semi-annual payments. The amendment would place  
18 the Code more in agreement with what is permitted by federal  
19 regulations.

20 Section 6 amends section 534.21 of the Code as it relates  
21 to the maximum dollar limitations on loans. The dollar limit  
22 contained in subsections 3 and 4 is the same as the federal  
23 limit and has been amended at least twice. Federal authorities  
24 are now considering raising it again. Savings and loan asso-  
25 ciations have no history of loss on more expensive houses  
26 and these loans can be made under the forty percent of assets  
27 classification anyway. Inflation in the prices of homes  
28 suggests that any amendment in dollar amount would only be  
29 temporary. The proposed amendment of eliminating the dollar  
30 amount would preclude the need for periodic amendment in the  
31 future.

32 Section 7 provides that prepayment penalties on loans other  
33 than home loans shall be a matter of contract between the  
34 lender and borrower. The maximum penalty as it now exists  
35 is greater for a home than for commercial property. If

1 amended, the Code would agree with the federal regulation.

2 Section 8 clarifies the authority to use a three-year or  
3 five-year averaging of savings for reserve purposes which  
4 the FSLIC allows. It also corrects a situation with uninsured  
5 associations where the reserve account never has been five  
6 percent of savings and never will be. They are required to  
7 put two percent of earnings into the reserve but have no  
8 "benchmark" requirements. A benchmark requirement means that  
9 reserves shall be a certain percentage of savings by a certain  
10 date. As this section now exists, the percentage of reserves  
11 to savings can legally dwindle. This amendment would place  
12 our Code in agreement with the federal regulation.

13 Section 9 amends section 534.48 to require an out-of-state  
14 association to show the same need as a domestic association  
15 for opening an office in this state. They do not have to  
16 do so under the present requirements. It also clarifies that  
17 doing business is not the granting of loans.

18 Section 10 is related to the amendment contained in sec-  
19 tion 9, and amends the section relating to reciprocity of  
20 state laws to reflect that "transacting business" and "granting  
21 loans" are subject to different restrictions.

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## SENATE FILE 119

## AN ACT

## RELATING TO THE REGULATION OF SAVINGS AND LOAN ASSOCIATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section five hundred thirty-four point two (534.2), subsection fourteen (14), Code 1977, is amended to read as follows:

14. "Real estate loan" shall mean any loan or other obligation secured by real estate, whether in fee or in a leasehold extending or renewable automatically for a period of at least fifty years or ten years beyond the maturity date of the loan.

Sec. 2. Section five hundred thirty-four point twenty-one (534.21), subsection twelve (12), Code 1977, is amended to read as follows:

12. LOANS ON LEASEHOLD. An association may also make loans on leasehold interests, under the same terms as above provided for other loans, if said leasehold interest extends or is automatically renewable at the option of the holder, or at the option of the association, for a period of at least fifty years from the date the loan is executed ~~but or~~ at least ten years beyond the maturity date of the loan ~~and provided further that in event of default the real estate described in such leasehold interest could be subjected to the satisfaction of the debt with the same priority.~~

Sec. 3. Section five hundred thirty-four point twelve (534.12), subsection one (1), Code 1977, is amended to read as follows:

1. VOTING. Each member shall have one vote for each one hundred dollars of net equity above share loans in his or her share account owned and held by him or her at any election, and may vote the same by proxy, but no person shall vote more than ten percent of the savings liability at the time of said election excepting that proxies held and voted by an individual

member or a proxy committee shall not be included in said ten percent limitation. Every proxy shall be in writing and shall, unless otherwise specified in the proxy, continue in force for eleven months from the date thereof. No proxies shall be voted at any meeting unless such proxies have been on file with the secretary of the association for verification at least five days before the date of the meeting. Anyone depositing or transferring savings as collateral security shall be deemed the owner of such share account within the meaning of this section. Notice of the regular annual meeting of members of an association shall be given by publishing said notice in a newspaper of general circulation in the county in which the office of said association is located at least thirty days before the date set for said annual meeting. Proxies may be revoked by any member upon written notice to the secretary of an association; by execution of a written proxy to another agent; or by personal attendance by the member at the members' meetings. Each member as defined by section 534.2, subsection 8, shall, regardless of shares, be entitled to at least one vote at any members' meeting.

Sec. 4. Section five hundred thirty-four point nineteen (534.19), subsection nine (9), Code 1977, is amended to read as follows:

9. SERVICING LOANS. To service mortgages and real estate contracts subject to such regulations and restrictions as may be prescribed by the supervisor ~~provided such mortgages originally are made by such association and subsequently sold. The maximum principal amount of mortgages thus serviced by an association at any one time shall not exceed twenty-five percent of the amount of the savings liability of such association. No service contracts for sale of real estate provided that one of the parties to said contract is a member of the servicing association and that such association shall not undertake in connection with such servicing to be responsible for more than bookkeeping or other perfunctory services in connection herewith.~~

Sec. 5. Section five hundred thirty-four point twenty-

one (534.21), subsection two (2), Code 1977, is amended to read as follows:

2. **TERMS OF LOANS.** All installment loans shall be repayable within thirty years or, if an insured or guaranteed loan, within the period acceptable to the insuring or guaranteeing agency. Loans of any type that such an association may make on a monthly installment basis may also be made without full amortization of principal; provided, that except for insured or guaranteed loans, interest shall be payable at least semiannually and any such loan may be made for an amount not in excess of ~~fifty~~ seventy percent of the value and for a term of not more than ~~five~~ three years; ~~And provided further, that if the members have authorized loans to be made without full amortization up to such higher percentage such loans may be made for an amount not in excess of sixty percent of the value and for a term of not more than three years; And provided further, that if the members have authorized loans to be made without full amortization up to such higher percentage such~~ Such loans, if made for the purpose of construction, may be made for an amount not in excess of eighty percent of the value and for a term of not more than eighteen months. A construction loan may be combined with an installment loan in one note, provided the total term does not exceed thirty-one years and six months. Loans, other than home loans, may be made on a monthly installment basis with a final principal payment in an amount larger than preceding principal payments. Loans with principal and interest payments less than monthly but at least annually may be made with the same terms as monthly installment loans for an amount not in excess of eighty percent of value.

Sec. 6. Section five hundred thirty-four point twenty-one (534.21), subsections three (3) and four (4), Code 1977, are amended to read as follows:

3. **HOME LOANS.** Every such association may originate and make first mortgage amortized real estate loans ~~for not to exceed fifty thousand dollars~~ secured by home property situated within the regular lending area. ~~Home loans may be made~~

~~in excess of the fifty thousand dollar limitation when made under the forty percent of assets lending power hereinafter set out.~~

4. **OTHER LOANS.** Every such association may use an aggregate amount not exceeding forty percent of the assets at the time of such use, or a larger amount with the approval of the supervisor, to make loans as follows:

~~a. Home loans which are either direct reduction home loans or not, but which exceed fifty thousand dollars each, regardless of where the home property securing the loan is situated;~~

b. Home loans of any amount, which are direct reduction home loans, but which are secured by home property situated beyond the regular lending area.

c. Home loans of any amount which are not direct reduction home loans, regardless of where the home property securing the loan is situated.

d. Other real estate loans, whether amortized or unamortized, regardless of amount thereof or location of real estate securing the loan.

e. First mortgage loans insured by an instrumentality of the United States government or first mortgage loans insured by an approved mortgage insurance company doing business in the state of Iowa shall be exempt from the provisions of the forty percent of assets lending power.

This power is herein referred to as the "forty percent of assets lending power." A subsequent reduction of savings liability shall not affect in any way outstanding loans made under the forty percent of assets lending power.

Sec. 7. Section five hundred thirty-four point twenty-one (534.21), subsection ten (10), Code 1977, is amended to read as follows:

10. **ADVANCE INTEREST ON PREPAYMENTS.** Real estate loans on one to four family dwellings may be repaid in part or in full at any time, excepting that the association may charge not to exceed six months advance interest on that part of the aggregate amount of all prepayments made on such loan

in any twelve-month period which exceeds twenty percent of the original principal amount of the loan; and may charge any negotiated rate ~~not to exceed three percent of the original principal~~ ~~prepayment~~ ~~on other loans during the first three years of said loans, after which time the association may charge as above provided for on one to four family dwellings.~~

Sec. 8. Section five hundred thirty-four point forty-three (534.43), Code 1977, is amended to read as follows:

534.43 RESERVE FOR CONTINGENCIES. As of June 30 ~~thirtieth~~ and December 31 ~~thirty-first~~ of each year, before declaring any dividends, the board of directors shall transfer and credit to a general reserve account an amount equivalent to not less than two percent of the net earnings of the association for the preceding six months, called the "accounting period", such transfers to be made at the end of each six months accounting period, until such general reserve account is equal to at least five percent of the total amount paid in by members and credited on share accounts. The above action shall be taken March 31 ~~thirty-first~~, June 30 ~~thirtieth~~, September 30 ~~thirtieth~~ and December 31 ~~thirty-first~~ of each year and the dividends and reserve periods correspondingly adjusted if dividends are paid quarterly. If at any time thereafter such general reserve account shall on account of losses be reduced to less than five percent of the amount paid in and credited on share accounts, such transfers and credits thereto shall be resumed and continued until such reserve is again equal to at least five percent of the total amount paid in and credited on share accounts of members. The reserve account so established shall at all times be maintained and used for the sole purpose of absorbing losses incurred by the association and for no other purposes. An association may establish such other and additional special reserves as may be ordered by its board of directors. An association as an optional method may close its books on a fiscal year basis with one transfer to reserves at the conclusion of the fiscal year. Except as permitted by the federal savings and loan insurance corporation or when the

general reserve account is in excess of five percent of total savings, five percent of the general reserve account to total savings shall not be reduced due to an increase in savings.

Sec. 9. Section five hundred thirty-four point forty-eight (534.48), Code 1977, is amended to read as follows:

534.48 FOREIGN ASSOCIATIONS. If any foreign building and loan or savings and loan association, as in this chapter defined, desires to transact business within this state, it shall furnish to the state executive council a certified copy of its articles of incorporation, or charter and bylaws, and a certified copy of the state laws under which it is organized, together with a report for the year next preceding, verified by its president, vice president, secretary, and at least three directors, which report shall show:

1. The amount of its authorized savings liability and the par value of its shares, if any.
2. The increase in savings liability.
3. The withdrawal from savings liability during the year.
4. The amount of savings liability in force at the end of the year.
5. A detailed statement of all funds received during the year and all disbursements.
6. The salaries paid each of its officers.
7. A detailed statement of its assets and liabilities at the end of such year and the nature thereof.
8. Any the requirements of section five hundred thirty-four point three (534.3), subsection three (3), paragraph a, of the Code for a domestic association desiring to establish an office and any other matters of fact which the council may require.

As used in this section, to transact business shall mean to have an office, agency or agent in this state.

Sec. 10. Section five hundred thirty-four point sixty-two (534.62), Code 1977, is amended to read as follows:

534.62 DISCRIMINATION IN FOREIGN STATES. When by the laws of any other state, territory, country or nation, or by the decision or rulings of the appropriate and proper

officers thereof, any greater taxes, fines, penalties, licenses, fees, deposits of money or other securities, or other obligations or prohibitions, are demanded of building and loan or savings and loan associations of this state, as a condition to be complied with before doing business or granting loans in this that state, so long as such laws continue in force, the same requirements, obligations, and prohibitions of whatever kind shall be imposed on all building and loan or savings and loan associations of such other state, territory, country or nation doing business in this state, and upon their agents. It is hereby made the duty of the auditor of state to enforce the provisions of this section.

Sec. 11. This Act is effective January 1, 1978.

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ARTHUR A. NEU  
President of the Senate

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DALE M. COCHRAN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 119, Sixty-seventh General Assembly.

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STEVEN C. CROSS  
Secretary of the Senate

Approved May 12, 1977

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ROBERT D. RAY  
Governor