

if any, and the date and time when the owner wishes the election to become effective. The notice shall be signed by every titleholder of the real property and acknowledged by a notary public.

c. An election shall terminate fourteen days following the filing of a written notice of withdrawal with the designated officials of the local authority whose ordinances, rules, or regulations will govern.

d. For purposes of this subsection, "titleholder of real property" means the person or entity whose name appears on the documents of title filed in the official county records as the owner of the real property upon which a mobile home park is located.

Approved May 1, 1991

CHAPTER 92

REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

S.F. 494

AN ACT relating to the transfer of the regulatory authority of the superintendent of savings and loan associations to the director of the department of commerce and the superintendent of banking.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 527.3, subsection 1, Code 1991, is amended to read as follows:

1. For purposes of this chapter the superintendent of banking only shall have has the power to issue rules applicable to, to accept and approve or disapprove applications or informational statements from, to conduct hearings and revoke any approvals relating to, and to exercise all other supervisory authority created by this chapter with respect to banks; the superintendent of savings and loan associations only shall have and exercise such powers and authority with respect to savings and loan associations; the superintendent of credit unions only shall have and exercise has such powers and authority with respect to credit unions; and the superintendent of banking or the superintendent's designee only shall have and exercise has such powers and authority with respect to industrial loan companies.

Sec. 2. Section 534.102, subsection 12, Code 1991, is amended to read as follows:

12. "Insured", when used in conjunction with the words "association", "state association", "foreign association", or "federal association", means an institution whose deposits are insured in part by the federal savings and loan savings association insurance fund of the federal deposit insurance corporation or another insurance plan approved by the superintendent.

Sec. 3. Section 534.102, subsection 28, Code 1991, is amended to read as follows:

28. "Superintendent" means the superintendent of savings and loan associations who is the director of the department of commerce.

Sec. 4. Section 534.103, subsection 1, Code 1991, is amended to read as follows:

1. GENERAL CORPORATE POWER. To sue and be sued, complain and defend in any court of law or equity; to purchase, acquire, hold, and convey real and personal estate consistent with its objects and powers; to mortgage, pledge, or lease any real or personal estate owned by the association and to authorize such a pledgee to repledge same the property; to take property by gifts gift, devise, or bequest; to have a corporate seal, which may be affixed by imprint, facsimile, or otherwise; to appoint officers, agents, and employees as its business shall require requires and allow them suitable compensation; to provide for life, health, and casualty insurance for its officers and employees and to adopt and operate reasonable bonus plans and retirement benefits for such the officers and employees to enter into payroll savings plans; to adopt

and amend bylaws; to insure its accounts with the federal savings and loan savings association insurance fund of the federal deposit insurance corporation and qualify as a member of a federal home loan bank; to become a member of, deal with, or make contributions to any organization to the extent that ~~such~~ the organization assists in furthering or facilitating the association's purposes or powers and to comply with conditions of membership; to accept savings as provided in this chapter together with ~~such~~ other powers as are otherwise expressly provided for in this chapter, together with ~~such~~ implied powers as are reasonably necessary for the purpose of carrying out the express powers granted in this chapter.

Sec. 5. Section 534.111, Code 1991, is amended to read as follows:

534.111 RIGHTS OF FEDERAL ASSOCIATIONS — RECIPROCITY.

Every federal savings and loan association incorporated under the ~~provisions~~ of Home Owners' Loan Act of 1933, [12 U.S.C. § 1461-1468], as ~~now or hereafter~~ amended, and the holders of share accounts issued by any such association shall have all the rights, powers, and privileges and shall be are entitled to the same exemptions and immunities, as savings and loan associations organized under the laws of this state and members thereof are entitled.

Every association organized under this chapter has all the rights, powers, and privileges not in conflict with the laws of this state, which are conferred upon federal savings and loan associations by the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464, and conferred by regulations adopted by the federal home loan bank board and the federal savings and loan insurance corporation office of thrift supervision.

Sec. 6. Section 534.112, Code 1991, is amended to read as follows:

534.112 REGULATORY CAPITAL.

An association shall maintain regulatory capital in the amount required by regulations of the federal savings and loan insurance corporation office of thrift supervision. For the purpose of this section, "regulatory capital" means the sum of all reserve accounts (except specific reserves established to offset actual or anticipated losses), undivided profits, surplus, capital stock, and any other nonwithdrawable accounts.

Sec. 7. Section 534.205, subsection 1, Code 1991, is amended to read as follows:

1. APPRAISAL. A qualified person shall conduct an inspection of the property securing the loan and submit a signed appraisal of the market value of that property, ~~provided that~~. However, an appraisal is only required where if the loan is secured by a first lien. An appraisal must conform to the standards promulgated by the federal office of thrift supervision as mandated by Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Sec. 8. Section 534.213, subsection 1, paragraph c, Code 1991, is amended by striking the paragraph.

Sec. 9. Section 534.213, subsection 1, paragraph g, Code 1991, is amended to read as follows:

g. Savings accounts of any savings and loan association the deposits of which are insured by the federal savings and loan deposit insurance corporation.

Sec. 10. Section 534.214, subsection 5, Code 1991, is amended to read as follows:

5. DEFINITIONS. For purposes of this section an "insured bank" is a bank whose deposits are insured in part by the bank insurance fund of the federal deposit insurance corporation; a "bank service corporation" is as defined by, and in accordance with, the laws of the United States, and the "superintendent of banking" is the person appointed pursuant to section 524.201.

Sec. 11. Section 534.301, subsection 6, Code 1991, is amended to read as follows:

6. OPERATING UNDER FEDERAL RULES AS TO DEPOSITS AND INTEREST. A savings and loan association operating under this chapter may operate in a manner similar to federally chartered savings and loan associations regarding the use of the terms "deposit" and

"interest" and with such other powers as have been authorized to federally chartered associations under the Homeowners Loan Act of 1933, Title 12, section 1464, United States Code U.S.C. § 1464, and as permitted under the rules and regulations of the federal home loan bank system and federal savings and loan insurance corporation the federal office of thrift supervision, to the extent that similar rules and regulations have been adopted by the superintendent and have been filed with the secretary of state. This subsection shall does not diminish or restrict the powers otherwise granted to such association by the laws of Iowa.

The adoption and filing of such rules or regulations by the superintendent shall not diminish or restrict the rights of associations which do not make the above determination.

Sec. 12. Section 534.401, Code 1991, is amended to read as follows:

534.401 DIVISION OF SAVINGS AND LOAN ASSOCIATIONS.

1. DIVISION OF SAVINGS AND LOAN ASSOCIATIONS CREATED — SUPERINTENDENT. A savings and loan association division is created within the department of commerce. The superintendent of savings and loan associations is the chief administrative officer of the division. The governor shall appoint the superintendent subject to confirmation by the senate. The superintendent shall serve a four-year term. The term begins and ends as provided in section 69.19. A vacancy in an unexpired term shall be filled in the same manner as a full-term appointment is made. The superintendent shall have at least five years' practical experience in savings and loan management, examination, or supervision. The superintendent's salary shall be set by the governor within a range set by the general assembly. The superintendent is entitled to actual expenses incurred in the performance of the superintendent's duties.

2. GENERAL SUPERVISORY POWER. The superintendent has general supervision over all supervised organizations.

The superintendent may appoint examiners and assistants necessary to properly execute the duties of the office. An examiner shall have had at least one year of actual experience as examiner, officer, or employee, of a savings and loan association. The examiners' salaries shall be fixed by the superintendent subject to the approval of the director of management and governor, which salaries shall be commensurate with those in the range of other employees as prescribed by certain classifications in accordance with their experience and qualifications. In addition the examiners shall be reimbursed for their actual and necessary expense.

Before entering upon their duties, the superintendent and each examiner appointed by the superintendent shall take an oath of office and shall each give bond to the state, signed by a responsible surety company, in the penal sum of two thousand dollars, conditioned upon faithful and impartial discharge of the person's duty and on proper accounting for all funds and other valuables which may come into the person's hands. The bonds shall be approved by and filed with the auditor of state, together with oaths of office of the officers.

The superintendent may adopt further rules deemed necessary to enable savings and loan associations to properly carry on the activities authorized under this chapter.

3. DUTIES. The superintendent shall, at least once each year, cause examination and audit to be made of the affairs of every association subject to this chapter. If an association is insured under Title IV of the National Housing Act, 12 U.S.C. ch. 13, the superintendent may, in lieu of examination and audit, accept an examination or audit made by the federal savings and loan insurance corporation office of thrift supervision. An association may, in lieu of examination and audit by the superintendent, at the option of the superintendent be audited by a certified public accountant, or by a public accountant qualified and licensed to practice accountancy under the Code of Iowa. At least two copies of each examination or audit report, signed and verified by the accountant making it, shall promptly be filed with the superintendent. When, in the judgment of the superintendent, the condition of an association renders it necessary or expedient to make an extra examination or audit or to devote extraordinary attention to its affairs, the superintendent shall cause such work to be done. A copy of every examination or audit report shall be furnished to the association examined, exclusive of confidential comments made by the examiner, and a copy of every report and comments and any other information pertaining to an association may be furnished to the federal home loan bank board, federal home loan

bank, and federal savings and loan insurance corporation office of thrift supervision. A copy of an examination or audit report shall be presented to the board of directors at its next regular or special meeting, their action on it shall be recorded in the minutes, and two certified copies of the minutes shall be transmitted to the superintendent.

4. SUPERINTENDENT'S ANNUAL REPORT. The superintendent, as of December 31 of each year, shall prepare and publish a report showing in general terms the condition of all savings and loan associations doing business in this state, and containing other general information as in the superintendent's judgment seems desirable. The reports shall also list the names of all examiners and other assistants employed appointed by the superintendent, together with their respective salaries and expenses, shall list all receipts from savings and loan associations, and shall show all expenditures made on account of the supervision and examination of the associations.

Sec. 13. Section 534.403, subsections 2 and 3, Code 1991, are amended to read as follows:

2. EXPENSES, PER DIEM, VACATION, AND SICK LEAVE. If the examination is made under section 534.401, subsection 3, each examiner shall file with the superintendent an itemized, certified, and sworn voucher of the examiner's expense for the time the examiner is actually engaged in an examination. On the fifteenth and last days of each month each examiner shall file in triplicate with the superintendent a certified statement of the actual days engaged in examinations. The salaries shall be included in a two-week payroll period. Upon approval of the superintendent, the director of revenue and finance is authorized to issue warrants for payment of the vouchers and salaries, including a prorated amount for vacation and sick leave, from the savings and loan revolving fund. Repayment to the state shall be made as provided by section 534.408, subsection 4. Savings and loan examiners shall be paid salaries at rates commensurate with, and shall be reimbursed for meals and lodging at the same rate and in the same manner as, that which is received by federal examiners operating under the federal home loan bank board.

3. RECORD REQUIRED. A record of all examinations, reports, and related information shall be kept in the superintendent's office, showing in detail as to each association all matters connected with the conduct of its business, its financial standing, and everything touching its solvency, plan of business, and integrity.

The examinations, reports, and information shall be kept confidential in the office of the superintendent, and are not subject to publication or disclosure to others except as provided in this chapter. However, the superintendent may furnish any examination, report, or information to the federal savings and loan insurance corporation office of thrift supervision, federal deposit insurance corporation, or a successor deposit insurance instrumentality, federal home loan bank board, or financial institution regulatory authorities of any state. Any evidence of felonious acts on the part of the officers, directors, or employees of an association may be referred by the superintendent to proper authorities. Members of associations, other than their officers and directors, are not entitled to inspection of any such records or information, and are not entitled to any information relative to the names of the members of an association, or the amounts invested by them, as disclosed in the superintendent's office, or in the records of an association.

Sec. 14. Section 534.405, unnumbered paragraph 6, Code 1991, is amended to read as follows:

If the association has the insurance protection provided by Title IV of the National Housing Act, 12 U.S.C. ch. 13, a signed and sealed copy of each order and certificate mentioned in this section shall be promptly sent by the superintendent by registered mail to the federal savings and loan insurance corporation office of thrift supervision, Washington, D.C. If the association is insured by the federal savings and loan savings association insurance fund of the federal deposit insurance corporation, that the resolution trust corporation shall be named receiver if the superintendent has determined the need for a receivership.

Sec. 15. Section 534.408, subsections 1, 8, and 9, Code 1991, are amended to read as follows:

1. PAYABLE TO DIVISION. Associations shall pay fees by delivering to the superintendent a check payable to the savings and loan division of the department of commerce. All fees collected under this chapter shall be deposited with the treasurer of state in a separate fund to be known as the savings and loan revolving fund, except eleven thousand dollars each fiscal year shall be transferred to the general fund of the state. The amount shall be considered as one of the costs of the savings and loan division. All expenses necessary to carry out this chapter shall be paid from the savings and loan revolving fund and appropriated by the general assembly from the fund.

The authority to modify allotments provided in section 8.31 shall not apply to funds appropriated from the savings and loan fund.

8. ADMINISTRATIVE SERVICES COST. The savings and loan association division shall transfer at the beginning of each fiscal quarter from appropriated trust funds to the administrative services trust fund an amount which represents the division's share of the estimated cost of consolidated administrative services within the department of commerce, such share to be in the same proportion as established by agreement in the fiscal year beginning July 1, 1986, and ending June 30, 1987, with the first quarterly transfer to occur between July 1 and July 31 annually. At the close of the fiscal year, actual versus estimated expenditures shall be reconciled and any overpayment shall be returned to the division or any underpayment shall be paid by the division.

9. ADDITIONAL FUNDS FOR EXAMINATIONS. The savings and loan association division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for savings and loan association examinations and directly result from examinations of savings and loan associations. Before the division expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which examination expenses can be paid. Upon approval of the director of the department of management, the division may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected from those savings and loan associations being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 16. Section 534.506, subsection 1, Code 1991, is amended to read as follows:

1. An association organized under this chapter as a condition of maintaining its privilege of organization after July 1, 1984, shall acquire and maintain insurance to protect each depositor against loss of funds held on account by the association. The insurance shall be obtained from the federal savings and loan deposit insurance corporation or another insurance plan approved by the superintendent.

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