

**SAVINGS AND LOAN ACT OF 1980 (EXCERPT)**  
**Act 307 of 1980**

ARTICLE 9

**491.900 Number and classes of shares issued by stock association; par value; voting, dividend, liquidation, and other right, preference, and limitation; denial or limitation of rights; distinguishing shares of each class; equality of shares.**

Sec. 900. A stock association may issue the number of shares authorized in the association's articles of incorporation. The shares may be all of 1 class or may be divided into 2 or more classes. Each class shall consist of shares with par value and shall have a designation and a relative voting, dividend, liquidation, and other right, preference, and limitation, consistent with this act, as are stated in the articles of incorporation. The articles of incorporation may deny, limit, or otherwise prescribe the voting rights and may limit or otherwise prescribe the dividend or liquidation rights of shares of a class. If the shares are divided into 2 or more classes, the shares of each class shall be designated to distinguish them from the shares of the other classes. Each share shall be equal to every other share of the same class.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.902 Convertible shares or securities; issuance; approval; increasing shares to satisfy conversion privileges; reservation of unissued shares; consideration; cancellation of converted shares; reduction of shares.**

Sec. 902. (1) If the articles of incorporation provide, and subject to restrictions in this act, a stock association may issue shares convertible at the option of the holder or the association or upon the happening of a specified event into shares of the same or any other class. Authorized shares, issued or unissued, may be made convertible within a period and upon the terms and conditions which are specified by the articles of incorporation.

(2) Members' approval for the issuance of convertible shares or convertible securities authorized by section 516 may provide that the board may amend the articles of incorporation to increase the authorized shares of any class to a number sufficient to satisfy the conversion privileges of the shares or other securities after giving effect to their issuance and any previously authorized but unissued shares of the class.

(3) Convertible shares of a stock association shall not be issued unless a sufficient number of authorized but unissued shares of the appropriate class are reserved by the board to be issued only in satisfaction of the conversion privileges of the convertible shares when issued, or the aggregate conversion privileges of the convertible shares when issued do not exceed the aggregate of any shares reserved by the board of the association and any additional shares which may be authorized by the board under this section.

(4) The consideration for shares issued upon the exercise of a conversion privilege shall be that provided in section 914. Shares which have been converted shall be canceled and the number of authorized shares of the stock association shall be reduced accordingly.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.904 Subscription for shares; enforceability; subscription irrevocable; exception; contract to purchase shares as subscription agreement.**

Sec. 904. (1) A subscription for shares in a stock association made before or after organization of the association is not enforceable unless in writing and signed by the subscriber.

(2) A subscription for shares of a stock association to be organized is irrevocable and may be accepted by the association for a period of 6 months, unless otherwise provided by the subscription agreement or unless all the subscribers consent to the revocation.

(3) A contract with an association to purchase its shares to be issued is a subscription agreement and not an executory contract to purchase shares, unless otherwise provided in the contract.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.906 Subscription for shares; payment; call for payment ratable; retention of shares as security.**

Sec. 906. Unless otherwise provided in a subscription agreement, a subscription for shares made before organization of a stock association shall be paid in full at the time determined by the supervisor, and a subscription made after organization shall be paid in full at the time determined by the board of the association. A call made by the association for payment on subscriptions shall be ratable as to all shares of the same class, and an association shall retain any shares as security for performance by the subscriber of his or

her obligation under a subscription agreement, subject to the power of sale or rescission upon default provided in section 908.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.908 Default in payment under subscription agreement; powers of stock association; rights and duties cumulative; limiting and adding to rights and remedies.**

Sec. 908. (1) In case of default in payment of an installment, call, or other amount due under a subscription agreement, including an amount which may become due as a result of a default in performance of a provision of a subscription agreement, a stock association may do any of the following:

(a) Collect the amount due in the same manner as any other debt owing to the association. At any time before full satisfaction of the claim or a judgment, the association may proceed as provided in subdivision (b).

(b) Sell the shares in a reasonable manner. Notice of the time and place of a public sale or of the time after which a private sale may be had, together with a statement of the amount due upon each share, shall be given in writing to the subscriber personally or by registered or certified mail not less than 20 days before a time stated in the notice. Any excess of net proceeds realized over the amount due plus interest shall be paid to the subscriber. If the sale is made in good faith, in a reasonable manner, and upon notice, the association may recover the difference between the amount due plus interest and the net proceeds of the sale. A good faith purchaser for value shall acquire title to the sold shares free of any right of the subscriber even though the association fails to comply with 1 or more of the requirements of this subdivision.

(c) Rescind the subscription as provided in section 906, and recover damages for breach of contract. Unless special circumstances show proximate damages of a different amount, the measure of damages shall be the difference between the market price at the time and place of tender of the shares and the unpaid contract price. Liquidated damages may be provided for in the subscription agreement in any amount which is reasonable, taking into consideration any estimated difficulties of proof of loss. The subscriber may have restitution of the amount by which the sum of the subscriber's payments exceed the damages for breach of the contract, whether fixed by agreement or judgment.

(2) The rights and duties provided in this section shall be interpreted as cumulative so far as is consistent with entitling the association to a full and single recovery of the amount due or the association's damages. The subscription agreement may limit the rights and remedies of the association provided in this section, and may add to them as provided in this subsection.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.910 Rescission of subscription; effect.**

Sec. 910. Rescission by a stock association of a subscription under which a part of the shares subscribed for have been issued and in which the association retains a security interest, as provided in section 906, effects the cancellation of the shares.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.912 Consideration for issuance of shares; payment; rights and privileges; conclusive judgment of value.**

Sec. 912. (1) Shares shall be issued for a consideration not less than the par value of the shares, as fixed by the board. That part of the capital in excess of par of a stock association transferred to stated capital upon issuance of shares as a share dividend shall be the consideration for issuance of the shares.

(2) Consideration for the issuance of shares may be paid in whole or in part in money or other tangible or intangible property. If payment of the full consideration for which shares are to be issued is received by the association, the subscriber has all the rights and privileges of a member, including registration of a certificate representing the shares in the subscriber's name, and the shares shall be fully paid and nonassessable. If the consideration is future payment, the rights of the subscriber shall be determined by the subscription agreement. In the absence of fraud in the transaction, the judgment of the board as to the value of the consideration received for shares, options, or rights to shares is conclusive.

**History:** 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1987, Act 106, Imd. Eff. July 7, 1987.

#### **491.914 Consideration for shares issued in exchange or conversion; determination.**

Sec. 914. Upon a conversion of shares or of convertible debt instruments provided for by section 516, or upon an exchange of shares for the same or a different number of shares, whether of the same or a different class, consideration for the shares issued in exchange or conversion shall be determined by the board, and shall be 1 or more of the following:

(a) The stated capital then represented by the shares exchanged or converted, or, in case of convertible debt

instruments, the principal sum of and accrued interest on the debt instruments.

(b) Any stated capital not previously allocated to a designated class of shares which is thereupon allocated to the new shares.

(c) That part of capital in excess of par, if any, transferred to stated capital upon the issuance of shares for the shares or debt instruments exchanged or converted.

(d) Any additional consideration paid to the association upon the issuance of shares for the shares or debt instruments exchanged or converted.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.916 Obligation of member; liability of member as assignee, transferee, or pledgee of subscription for shares.**

Sec. 916. (1) Except as provided in this act, a member of a stock association is not under an obligation to the association or the association's creditors other than the obligation to pay to the association on the unpaid portion of the consideration for which the shares were issued or to be issued, which shall not be less than the amount of the consideration for which the shares could be lawfully issued.

(2) A member becoming an assignee, transferee, or a pledgee of a subscription for shares, in good faith and without knowledge or notice that the full consideration for the shares has not been paid, is not liable to the association or the association's creditors for any unpaid portion of the consideration, but the original subscriber and an assignee or transferee before an assignment or transfer to a person taking in good faith and without knowledge or notice remains liable for the unpaid portion of the consideration.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.918 Rights and options; creation; issuance; consideration for shares purchased under rights and options; terms and conditions; rights or options issued as incentive to service.**

Sec. 918. (1) Subject to a provision in the association's articles of incorporation, a stock association may create and issue, whether or not in connection with the issue and sale of the association's shares or bonds, rights or options entitling the holders of the shares or bonds to purchase from the association, upon the consideration, terms, and conditions as may be fixed by the board, shares of any class, whether authorized but unissued shares reserved for this purpose, or shares to be purchased or acquired.

(2) The consideration for shares to be purchased under the rights or options shall comply with sections 912 and 914.

(3) The terms and conditions of the rights or options, including the times at or within which and the prices at which they may be exercised and any limitation upon transferability, shall be set forth or incorporated by reference in the instruments evidencing the rights or options.

(4) The issue of the rights or options to 1 or more directors, officers, or employees of the association or a subsidiary or affiliate of the association, as an incentive to service or continued service with the association, a subsidiary or affiliate of the association, or to a trustee on behalf of the directors, officers, or employees, shall be authorized or ratified at a meeting of members, or issued pursuant to a plan adopted or ratified by the members.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.920 Certificate representing shares; signatures of officers; seal; contents.**

Sec. 920. (1) The shares of a stock association shall be represented by certificates signed by the chairperson, president, or vice-president and by the treasurer, assistant treasurer, secretary, or assistant secretary of the association, and shall be sealed with the seal of the association or a facsimile of the seal. The signatures of the officers may be facsimiles if the certificate is countersigned by a transfer agent or registered by a registrar other than the association itself or the association's employee. If an officer who has signed or whose facsimile signature has been placed upon a certificate ceases to be an officer before the certificate is issued, the certificate may be issued by the association with the same effect as if the person were the officer at the date of issue.

(2) A certificate representing shares shall state upon the certificate's face the name of the association and the address of the association's principal office; that the association is formed under the laws of this state; the name of the person to whom issued; the number and class of shares; and the par value of the share represented by the certificate.

(3) A certificate representing shares shall set forth on its face or back or shall be accompanied by a full statement of the designation, relative rights, preferences, and limitations of the shares of each class authorized to be issued.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.922 Lost or destroyed certificate; issuance of new certificate; bond.**

Sec. 922. A stock association may issue a new certificate for shares in place of a certificate previously issued by the association, alleged to have been lost or destroyed, and the board may require the owner of the lost or destroyed certificate, or the owner's legal representative, to give the association a bond sufficient to indemnify the association against a claim that may be made against the association on account of the alleged lost or destroyed certificate or the issuance of the new certificate.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.924 Issuance of fractions of share; purpose; issuance of scrip; form; signature; exchangeability; rights; conditions; sale or purchase of additional scrip; payment in cash of fair value of fractions of share.**

Sec. 924. (1) A stock association shall not issue fractions of a share to effect share transfers, share distributions, or a reclassification, merger, or reorganization. Instead of fractions of a share, an association may issue scrip in registered or bearer form over the manual or facsimile signature of an officer of the association or of the association's agent, exchangeable as provided in the scrip for full shares, but the ownership of scrip shall not entitle the holder to any rights of a member except as provided in the scrip. The scrip shall be issued subject to the condition that it is void if not exchanged for certificates representing full shares before a specified date. The scrip may be subject to the condition that the shares for which the scrip is exchangeable may be sold by the association and the proceeds of the sale distributed to the holders of the scrip, or subject to any other conditions which the board may determine. An association may provide reasonable opportunity for persons entitled to scrip to sell or purchase additional scrip needed to acquire a full share.

(2) As an alternative, an association may pay in cash the fair value of fractions of a share as of the time when those entitled to receive the fractions are determined.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.926 Merger or acquisition; allocation of capital in excess of par to retained earnings; limitation on aggregate retained earnings.**

Sec. 926. If shares are issued by a stock association in a merger or in acquisition of all or substantially all of the outstanding shares or of the property and assets of another association or federal association, any amount that would otherwise constitute capital in excess of par may be allocated to retained earnings by the board of the issuing association. However, the aggregate retained earnings of the association shall not exceed the sum of the retained earnings of the issuing association and of all other associations or federal associations that were merged or of which the shares or assets were acquired.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.928 Transactions with respect to share of capital stock; purchase of shares on order and for account of customer; loan on security of association's own shares; association as purchaser or holder of own shares; purchase or redemption of shares of preferred stock.**

Sec. 928. (1) An association shall not engage in a transaction with respect to shares of the association's capital stock unless specifically authorized by this act.

(2) A stock association may purchase its own shares upon the order of and for the account of a customer, without recourse.

(3) A stock association shall not make a loan on the security of the association's own shares, nor be the purchaser or holder of the shares unless the security or purchase is necessary to prevent loss on a debt previously contracted in good faith.

(4) A stock association may purchase or redeem shares of its preferred stock previously issued, but only in accordance with the terms and conditions governing purchase or redemption of the shares as a class.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.930 Cancellation of reacquired shares; restoration to status of authorized but unissued shares; amendment of articles of incorporation reducing number of authorized shares; reduction of stated capital.**

Sec. 930. (1) Shares that have been issued and have been purchased, redeemed, or otherwise reacquired by an association shall be canceled, and restored to the status of authorized but unissued shares. If the articles of incorporation prohibit reissue of any shares required or permitted to be canceled under this section, the association shall adopt and file an amendment of the articles of incorporation reducing the number of

authorized shares accordingly.

(2) If reacquired shares other than converted shares are canceled, the stated capital of the association is reduced by the amount of stated capital then represented by the canceled shares.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.932 Determination of amount or availability of retained earnings; computation; merger or combination of associations; limitation on amount of retained earnings; transfer of part of retained earnings to capital in excess of par; application of capital in excess of par to reduction or elimination of deficit in retained earnings account; disclosure; reserves.**

Sec. 932. (1) If it is necessary for a stock association to determine the amount or availability of its retained earnings under this article, the amount may be computed either from the date of formation of the association or from the latest date when a deficit was eliminated as permitted in this section by an application of the association's capital in excess of par. Upon merger, or combination of 2 or more associations by purchase or otherwise, the amount of retained earnings of the resulting or purchasing association shall not exceed the aggregate retained earnings of the constituent associations reduced by distributions to members and transfers of retained earnings to capital in excess of par made in connection with the issue of shares or otherwise at the time of merger or combination. A part of the retained earnings of an association may be transferred by the board to capital in excess of par.

(2) A stock association may, by resolution of its board, apply any or all of its capital in excess of par to the reduction or elimination of a deficit in the retained earnings account. The application of capital in excess of par to the elimination of a deficit in the retained earnings account shall be disclosed in the next financial statement covering the period in which the elimination is made that is furnished by the association to the association's members or, if practicable, in the first notice of dividend or share distribution that is furnished to holders of each class of the association's shares between the date of elimination and the next financial statement, and in any event to all the association's members within 6 months after the date of the action.

(3) This section shall not be construed to prevent a stock association from creating reserves from its retained earnings or capital in excess of par for any proper purpose, or from increasing, decreasing, or abolishing a reserve.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.934 Voting class of voting securities; limit; notice of proposed acquisition; notice of disapproval of proposed acquisition; hearing; furnishing information to supervisor; grounds for disapproval of proposed acquisition.**

Sec. 934. (1) A person, or a group of persons acting in concert, shall not acquire the power to vote 25% or more of any class of voting securities of an association through a purchase, assignment, transfer, pledge, or other disposition of voting securities unless the supervisor has been given prior written notice of the proposed acquisition by the acquiring person or group of persons, or by the federal savings and loan insurance corporation pursuant to the change in the savings and loan control act of 1978, 12 U.S.C. 1730, at least 30 days before the proposed acquisition, and the supervisor has not issued a decision disapproving the proposed acquisition before its proposed effective date.

(2) The supervisor shall notify the acquiring party in writing of any decision to disapprove a proposed acquisition within 3 days after the supervisor's decision or before the effective date of the proposed acquisition, whichever is sooner. Within 10 days after receipt of the supervisor's decision of disapproval, the acquiring party may request a hearing to reconsider the decision of the supervisor, which shall be conducted pursuant to Act No. 306 of the Public Acts of 1969, as amended.

(3) The supervisor may prescribe rules or application forms to be used for the furnishing of information to the supervisor concerning the identity, personal history, business background, financial condition, and existence of pending legal proceedings with respect to each person proposing to participate in an acquisition subject to this section, as well as information concerning the terms, conditions, and manner of making the proposed acquisition, the source of funds to be utilized, and any plans or proposals for material changes in the management, policies, operations, or organization of the association to be acquired. The supervisor shall disapprove any proposed acquisition subject to this section if any of the following occur:

(a) The financial condition of any acquiring person may jeopardize the financial stability of the association to be acquired or prejudice the interests of the depositors of the association.

(b) The competence, experience, or integrity of any acquiring person or any proposed management personnel indicates that it would not be in the best interests of depositors of the association or the public to permit the person to control the association.

(c) Any acquiring person neglects, fails, or refuses to furnish the information required under this section by

the supervisor.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.