Emergency Provisions effective March 20, 2008 - §8-355 and §8-374

Building and Loan Associations Act
Chapter 8, Article 3
§§ 8-301 to 8-385

8-301
Supervision and control; powers of Department of Banking and Finance.

The Department of Banking and Finance shall have power to issue permits to and shall have general supervision and control of all building and loan associations as defined in sections 8-301 to 8-340.01.

Last amended:
Laws 2000, LB 932, § 7

~ Revised Statutes Cumulative Supplement, 2006

8-301.01
Repealed. Laws 1984, LB 899, s. 7.

~ Reissue Revised Statutes of Nebraska

8-302
Power to require and receive payments from members; limitations.

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

Last amended:
Laws 1978, LB 717, § 1

~ Reissue Revised Statutes of Nebraska

8-303
Stock; ownership; limit; investment shares; loans.

(1) No person shall hold in his own right, or jointly with others, a total of withdrawal value of investment stock of more than sixty thousand dollars or an amount representing two percent of the total assets of the association, whichever is greater, except that investment shares which, when issued by an association, are within the limits prescribed in this subsection, may continue to be lawfully held irrespective of any shrinkage in the assets of the association.

(2) In any association, borrowing members may hold stock to the amount of sixty thousand dollars or an amount equal to five percent of the assets of the association, whichever amount is greater, except that (a) no borrowing member may hold stock in excess of one hundred thousand dollars unless that association has a reserve fund of at least five percent of the total assets of the association; and (b) if stock held by borrowing members which, when issued by an association, is within the limits prescribed in this subsection, it shall continue to be lawfully held irrespective of any shrinkage in the assets of the association.

(3) Notwithstanding the provision of this section, an association may issue any investment shares and make any loan to borrowing members which is or may be permitted to a federal association doing business in this state.

Last amended:
Laws 1969, c. 37, § 1, p. 244

~ Reissue Revised Statutes of Nebraska

8-304
Stockholders; voting; limitations.

Subject to the limitations set forth in section 8-303, each investing member shall be permitted to cast one vote for each hundred dollars of withdrawal value of his stock. Each borrowing member shall be permitted as a borrower to cast one vote, or to cast one vote for each one hundred dollars of the credit value of his stock. Fifteen or more members present at a regular or special meeting of members constitute a quorum. Voting may be by proxy if the instrument authorizing the proxy to vote shall have been executed by a member.

Last amended:
Laws 1953, c. 9, § 1, p. 74

~ Reissue Revised Statutes of Nebraska

8-305
Corporate name; requirements; penalty.

The words loan and building association, building association, building and loan association, savings and loan association, or loan and savings association, shall form part of the corporate

name of every such corporation. No individual, firm, company, corporation, or association operating in the State of Nebraska, unless (1) organized under authority of the federal government, (2) organized as a building and loan association under the authority of any foreign state and complying with the provisions of the Nebraska statutes, (3) organized and incorporated under and in accordance with the provisions of sections 8-301 to 8-384, or (4) having been in existence and doing business in Nebraska under its present name for a period of ten years prior to January 1, 1949, shall, after August 27, 1949, use in its name the words loan and building association, building and loan association, savings and loan association, loan and savings association, loan and building, building and loan, savings and loan, loan and savings, building and savings, or savings and building, in combination with any other word or words. Any person, firm, company, corporation, or association violating this section shall be guilty of a Class V misdemeanor for each offense. Each day such person, firm, or corporation shall use any such prohibited words shall be deemed a separate and distinct offense in violation of this section.

Last amended:
Laws 2005, LB 533, § 15

~ Revised Statutes Cumulative Supplement, 2006

8-306
Capital stock; amount; articles of incorporation; filing fees.

The capital stock of an association is not limited and shall consist of the aggregate of payments made by its members and dividends credited thereon, less withdrawals, and shall be represented by shares. It shall not be necessary for any association organized in and operating under the laws of the State of Nebraska to state in its articles of incorporation, or an amendment or amendments thereto, any amount of authorized capital stock. Upon the filing of articles of incorporation, or an amendment or amendments thereto, an association shall pay a filing fee of twenty-five dollars to the Secretary of State.

Last amended:
Laws 1953, c. 10, § 1, p. 75

~ Reissue Revised Statutes of Nebraska

8-307
Repealed. Laws 1978, LB 717, s. 7.

~ Reissue Revised Statutes of Nebraska

8-307.01
Pensions and retirement plans; adoption.

A building and loan association may provide for pensions, retirement plans, and other benefits for its officers and employees, and may contribute to the cost thereof in accordance with the plan adopted by a two-thirds vote of the board of directors, and approved by a vote of a majority of all the stockholders represented at an annual meeting of such association upon written notice mailed ten days prior to the annual meeting to the last-known address of each stockholder as shown by the books of the association that a pension or retirement plan, or other plan for benefits for its officers and employees will be presented at such meeting, and approved by the Department of Banking and Finance.

Last amended:
Laws 1953, c. 14, § 1, p. 80

~ Reissue Revised Statutes of Nebraska

8-308
Stock; credit value; right of shareholder to withdraw; conditions; withdrawal notice; exception for liquidation.

Any shareholder of an association shall be permitted to withdraw any or all of the credit value of his or her stock as shown by the books of the association, provided such stock is not pledged as security for a loan, by giving written notice of such intention to the secretary or managing officer of the association, and, at the expiration of thirty days following such notice, the member so withdrawing, or, if deceased, his legal representative, shall be entitled to receive the credit value of the stock at the time such notice was given, together with such proportion of the net profits accruing since the last dividend date, if the bylaws so provide and determine, less the admission fee, if any, or other just and lawful charges; PROVIDED, the right to so withdraw shall not apply to shareholders of an association in process of liquidation.

Last amended:
Laws 1941, c. 12, § 1, p. 84
C.S.Supp.,1941, § 8-304

~ Reissue Revised Statutes of Nebraska

8-309
Stock; withdrawal; limit; funds applicable.

At no time shall more than one-half of the unloaned funds in the treasury of the association and one-half of the accumulations thereto be applicable to the demands of the withdrawing shareholders without the consent by resolution of the board of directors. If there is delay in meeting payment to withdrawing members due to insufficient funds applicable to such purpose, such members shall be paid, and their stock thus repurchased retired, in the order of the filing of their withdrawal notices as funds applicable therefor are available.

Last amended:
Laws 1941, c. 12, § 1, p. 84
C.S.Supp.,1941, § 8-304

~ Reissue Revised Statutes of Nebraska

8-310
Stock; withdrawal; insufficient funds to meet notices; limit of loans; requirements.

So long as any association is delayed in meeting payment to withdrawing members due to insufficient funds applicable to such purpose, any loan made to a member shall be from funds not applicable for payment to withdrawing members, and shall not exceed one-half of the credit value of the member's stock unless secured also by the pledge of real estate. If the only security for such a loan be a pledge of the member's stock, the association shall take from the borrower a note for the payment thereof with interest, payable on demand, and a notice for withdrawal of sufficient of the stock to pay such note and interest unless such notice is already on file, and the association shall not demand payment of such note until it has funds available for the payment of the withdrawal notice in the sequence of its filing.

Last amended:
Laws 1941, c. 12, § 1, p. 84
C.S.Supp.,1941, § 8-304

~ Reissue Revised Statutes of Nebraska

8-311
Stock; withdrawals by borrowing members; funds applicable.

Withdrawals by a borrowing member from credits on stock pledged as security in connection with a real estate loan made by the association shall be permitted only at the discretion of the association, and if the association is delayed in meeting payments to withdrawing members due to insufficient funds applicable to such purpose, withdrawals permitted to such a borrowing member shall be paid only out of the funds of the association available for the making of real estate loans.

Last amended:
Laws 1941, c. 12, § 1, p. 84
C.S.Supp.,1941, § 8-304

~ Reissue Revised Statutes of Nebraska

8-312
Stock; enforcement of withdrawals by directors.

If the association has funds applicable for withdrawals and more than needed to retire the shares of members who have given written notice of an intention to withdraw, the directors may, if in their discretion it shall be for the best interests of the association, retire any unpledged shares by enforcing withdrawals of the same, subject to the approval and consent of the Department of Banking and Finance, and the owner or owners shall be paid the full credit value of such shares, which shall be the total of payments and dividends credited thereon less prior withdrawals, if any.

Last amended:
Laws 1941, c. 12, § 1, p. 85
C.S.Supp.,1941, § 8-304

~ Reissue Revised Statutes of Nebraska

8-313
Stock; enforced withdrawal; time; notice of intention.

Such retirements, if made, shall be made immediately after a period fixed by the bylaws of the association for the declaration and payment of dividends of earnings, and the association shall, at least sixty days before so retiring any shares, send written notice to each person shown by the books of the association to be an owner of such shares, mailed to such person's last-known address, which notice shall inform such persons of the intent of the association to make the retirement on a designated date.

Last amended:
Laws 1941, c. 12, § 1, p. 85
C.S.Supp.,1941, § 8-304

~ Reissue Revised Statutes of Nebraska

8-314
Stock; enforced withdrawal; notice of intention; contents.

The association shall without delay, upon so retiring shares by order of its board of directors, send a written notice to each person shown by the books of the association to be an owner of shares thus retired, mailed to such person's last-known address, which notice shall contain information of the retirement of the shares and of the number of the certificate representing said shares, and of the amount to be paid to such owner upon delivery to the association of said certificate.

Last amended:

Laws 1941, c. 12, § 1, p. 85
C.S.Supp.,1941, § 8-304

~ Reissue Revised Statutes of Nebraska

8-315
Loans; prepayment; required provisions; procedure.

The bylaws shall also contain equitable provisions permitting the payment of loans before maturity, as follows: The borrower shall be charged with the full amount of his loan, together with all arrearages due thereon or on the shares pledged, or appertaining to the security given, and shall thereupon be allowed, as a credit, the withdrawal value of the shares pledged as security together with an equitable share of the premium, if any, paid in advance, and such other credits as may be returnable on account thereof, and the balance shall be received by the association in full settlement and discharge of such loan. The credits on shares pledged in connection with a loan secured by mortgage on real estate, may at any time, and in whole or in part, be appropriated by any association and applied in reduction of such loan. The withdrawal value of shares pledged as a part of a loan transaction, where such loan is secured by mortgage on real estate, shall be the total amount of the payments on such shares as shown by the books of the association, together with such proportionate share of the earnings as the borrower may be entitled to under the bylaws of the association, less the amounts of previous appropriations and applications on the loan and withdrawals, if any. The association shall not directly or indirectly charge any membership, admission, withdrawal, or any other fee or sum of money for the privilege of becoming, remaining, or ceasing to be a member of the association, except charges upon the making or modification of a loan authorized by section 8-330. Except as authorized by this section and section 8-316, the association shall not charge any member any sum of money by way of fine or penalty for any cause. Payments on real estate loans shall be applied first to the payment of interest on the unpaid balance of the loan and the remainder on the reduction of principal. Any delinquent real estate taxes, both regular and special, which become a prior lien to the association's mortgage, may be paid by the association and added to the unpaid balance of the loan.

Last amended:
Laws 1978, LB 717, § 2

~ Reissue Revised Statutes of Nebraska

8-316
Loans; delinquency; required provisions; association's rights; computation of balance due.

The bylaws shall further provide that if any member has become delinquent in his payment on any shares pledged for the security of any loan from the association, which delinquency shall include delinquent real estate taxes both regular or special irrespective of whether paid by the association and charged to principal or unpaid and a prior lien on the property, and such

delinquency represents more than two monthly payments, such shares may be canceled, and he shall, as to such shares, cease to be a member of the association, and the withdrawal value, if any, of such shares at the date of cancellation, shall be credited on his loan. If, after the aforesaid credits, or other credits, a balance remains due the association on account of said loan, it may recover the balance either by the foreclosure and sale of the security given or by an action at law upon the evidence of indebtedness. The withdrawal value of shares pledged as a part of a loan transaction, where such loan is secured by mortgage on real estate, shall be the total amount of the payments on such shares as shown by the books of the association, together with such proportionate share of earnings as the borrower may be entitled to under the bylaws of the association, less the amounts of previous appropriations and applications on the loan and withdrawals, if any.

Last amended:
Laws 1978, LB 717, § 3

~ Reissue Revised Statutes of Nebraska

8-317
Certificates of stock; records; payments; matured stock; right to withdraw.

Certificates of stock or other written evidence thereof shall be issued for each account in conformity with sections 8-301 to 8-340.01 and the bylaws. Every stockholder shall receive credit on the books of the association for all amounts paid by the stockholder upon the stockholder's subscription for stock, together with the stockholder's pro rata share of all dividends declared, as hereinafter provided, and when the sum of such payments and dividends, less all fines or other charges, equal the par value of the shares of stock held by the stockholder, the stockholder shall be entitled to receive such par value, with such interest not exceeding the legal rate, as the directors may determine, from the time of maturity until paid. Holders of stock thus matured and members desiring to withdraw before such maturity shall be paid the value of their stock in the order of the maturity of or notice of withdrawal of such stock. At no time shall more than two-thirds of the unloaned funds in the treasury of the association, inclusive of such funds applicable to the demands of withdrawing stockholders, as hereinbefore provided, be applicable to the demands of holders of matured stock without the consent of the board of directors.

Last amended:
Laws 2000, LB 932, § 9

~ Revised Statutes Cumulative Supplement, 2006

8-318
Stock; share account; deposits; withdrawal methods authorized; investments by fiduciaries; rights; retirement plan, investments; building and loan association as trustee or custodian; powers and duties.

(1)(a) Shares of stock in any association, or in any federal savings and loan association incorporated under the provisions of the federal Home Owners' Loan Act of 1933, with its principal office and place of business in this state, may be subscribed for, held, transferred, surrendered, withdrawn, and forfeited and payments thereon received and receipted for by any person, regardless of age, in the same manner and with the same binding effect as though such person were of the age of majority, except that a minor or his or her estate shall not be bound on his or her subscription to stock except to the extent of payments actually made thereon.

(b) Whenever a share account is accepted by any building and loan association in the name of any person, regardless of age, the deposit may be withdrawn by the shareholder by any of the following methods:

(i) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the shareholder and constitutes a valid release in discharge to the building and loan association for all payments so made; or

(ii) Electronic means through:

(A) Preauthorized direct withdrawal;

(B) An automatic teller machine;

(C) A debit card;

(D) A transfer by telephone;

(E) A network, including the Internet; or

(F) Any electronic terminal, computer, magnetic tape, or other electronic means.

(c) This section shall not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq., as it existed on September 4, 2005, and shall not affect the legal relationships between a minor and any person other than the building and loan association.

(2) All trustees, guardians, personal representatives, administrators, and conservators appointed by the courts of this state may invest and reinvest in, acquire, make withdrawals in whole or in part, hold, transfer, or make new or additional investments in or transfers of shares of stock in any (a) building and loan association organized under the laws of the State of Nebraska or (b) federal savings and loan association incorporated under the provisions of the federal Home Owners' Loan Act of 1933, having its principal office and place of business in this state, without an order of approval from any court.

(3) Trustees created solely by the terms of a trust instrument may invest in, acquire, hold, and

transfer such shares, and make withdrawals, in whole or in part, therefrom, without any order of court, unless expressly limited, restricted, or prohibited therefrom by the terms of such trust instrument.

(4) All building and loan associations referred to in this section are qualified to act as trustee or custodian within the provisions of the federal Self-Employed Individuals Tax Retirement Act of 1962, as amended, or under the terms and provisions of section 408(a) of the Internal Revenue Code, if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the association or in other associations. If any such retirement plan, within the judgment of the association, constitutes a qualified plan under the federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 408(a) of the Internal Revenue Code, and the regulations promulgated thereunder at the time the trust was established and accepted by the association, is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the association may continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the member and beneficiaries thereof. No association, in respect to savings made under this section, shall be required to segregate such savings from other assets of the association. The association shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

Last amended:
Laws 2005, LB 533, § 16

~ Revised Statutes Cumulative Supplement, 2006

8-319
Loans; restricted to members; secured and unsecured; purposes; limit; parity with federal associations; security; participation in other loans; exceptions; educational loans.

(1) No loan shall be made by such association except to its own members, and no loan shall be made to any member for any sum in excess of the par value of his or her stock. The borrower shall pledge to the association, as security for the loan, shares of a maturity value equal to the principal of the loan and, except as otherwise provided in this section, ample security by mortgage or deeds of trust on real estate. For purposes of this section, real property and real estate shall include a leasehold or subleasehold estate in real property under a lease or sublease the term of which does not expire, or which is renewable automatically or at the option of the holder or of the association so as not to expire for at least five years beyond the maturity of the debt. Loans made upon improved real estate, except as otherwise provided in this section, shall not exceed ninety-five percent of the reasonable normal cash value thereof, and all loans made on any other real estate shall not exceed three-fourths of the reasonable normal cash value thereof.

(2) An association may make a loan or loans in an amount exceeding ninety-five percent of the reasonable normal cash value of the real estate security (a) if such loan or loans are made to a

veteran in accord with the provisions of 38 U.S.C., as now existing or as hereafter amended, (b) if the proceeds of the loan or loans are to be used in purchasing residential property or in constructing a dwelling on unimproved property owned by such veteran to be occupied as his or her home, used for the purpose of making repairs, alterations, or improvements in or paying delinquent indebtedness, taxes, or special assessments on residential property owned by the veteran and used by him or her as his or her home, or used in purchasing any land and buildings to be used by the applicant in pursuing a gainful occupation other than farming, and (c) if the Secretary of Veterans Affairs guarantees that portion of such loan or loans in excess of ninety-five percent of the reasonable normal cash value of the real estate security.

(3) An association is authorized to obtain insurance of its loans by the Federal Housing Administrator under Title II of the National Housing Act, as amended, and such loans so made upon improved real estate and so insured shall not be subject to the restrictions set forth in this section with reference to the maximum authorized amount of a loan.

(4) An association may make unsecured loans to its members if such loans (a) are insured under Title I and Title II of the National Housing Act, as amended, or (b) are for property alterations, repair, or improvements. The aggregate amount of loans made under subdivisions (a) and (b) of this subsection shall not at any time exceed twenty percent of the association's assets. Each loan made under subdivision (b) of this subsection shall be repayable in regular monthly installments within a period of twenty years and shall be supported by a written property statement on forms to be prescribed by the Department of Banking and Finance. An association may make secured loans to its members and may make loans under 38 U.S.C., as amended, under Chapter V, subchapter C of the Home Owners' Loan Act of 1933, as amended (12 U.S.C.), and on the security of mobile homes.

(5) The stock of such association may be accepted as security for a loan of the amount of the withdrawal value of such stock without other security.

(6) An association when so licensed may make loans to its own members upon the terms and security set forth in the Nebraska Installment Loan Act.

(7) Any provisions of this section to the contrary notwithstanding, an association may make any loan that a federal savings and loan association doing business in this state is or may be authorized to make.

(8) An association may invest in loans, obligations, and advances of credit, all of which are referred to in this subsection as loans, made for the payment of expenses of business school, technical training school, college, or university education, but no association shall make any investment in loans under this subsection if the principal amount of its investment in such loans, exclusive of any investment which is or which at the time of its making was otherwise authorized, would thereupon exceed five percent of its assets. Such loans may be secured, partly secured, or unsecured, and the association may require a comaker or comakers, insurance, guaranty under a governmental student loan guarantee plan, or other protection against contingencies. The borrower shall certify to the association that the proceeds of the loan are to be used by a full-time student solely for the payment of expenses of business, technical training

school, college, or university education.

(9) An association may participate with other lenders in making loans of any type that an association may otherwise make if (a) each of the lenders is either an instrumentality of the United States Government or is insured by the Federal Deposit Insurance Corporation or, in the case of another lender, the interest of the association in such loan is superior to the participating interests of the other participants and (b) an association whose accounts are insured by the Federal Deposit Insurance Corporation which may be a federal association or an association chartered by this state, or another association chartered by this state which is not so insured, has otherwise complied with subsection (1) of this section with respect to loans to members.

(10) An association may sell to or purchase from any institution which is a savings association chartered by this state or the accounts of which are insured by the Federal Deposit Insurance Corporation a participating interest in any loan, whether or not, in the case of a purchase, the security is located within the association's regular lending area.

Last amended:
Laws 2001, LB 53, § 4

Cross References:
Nebraska Installment Loan Act,see section 45-1001.

~ Revised Statutes Cumulative Supplement, 2006

8-320
Reserve funds; idle funds; investments authorized; deposit of funds in banks.

Any association may invest its reserve fund for the payment of contingent losses, any reserve fund created to protect against any other contingency, and any portion of its idle funds, not immediately needed to carry on its proper functions, as follows:

(1) In bonds, notes, warrants, or other direct obligations of the United States or of any city, village, county, township, or school, road, water, sewer, paving, drainage, or sanitary and improvement district or any other political subdivision of the State of Nebraska;

(2) In any securities and obligations issued by the Federal Home Loan Bank, the Federal National Mortgage Association, or successor corporations, bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration, and securities of any other federal agency corporation; and

(3) In securities issued pursuant to the Nebraska Business Development Corporation Act.

Any provision of this section to the contrary notwithstanding, an association may make any investment that a federal savings and loan association doing business in this state is or may be

authorized to make.

Any association may deposit its funds, or any part thereof, in any national or state bank insured by the Federal Deposit Insurance Corporation or any corporation successor thereto and receive therefor certificates of time or savings deposit or the usual bank passbook credit subject to check or in share accounts of any state or federal savings and loan association the accounts of which are insured by the Federal Deposit Insurance Corporation or any corporation successor thereto.

Last amended:
Laws 2005, LB 533, § 17

Cross References:
Nebraska Business Development Corporation Act,see section 21-2101.

~ Revised Statutes Cumulative Supplement, 2006

8-320.01
Investments; service corporations.

An association organized under the provisions of Chapter 8, article 3, may purchase, hold, and sell stock in any service corporation organized under the laws of the State of Nebraska whose stock is owned exclusively by building and loan associations whose operations are subject to audit by the Department of Banking and Finance and, if insured, by the Federal Home Loan Bank Board and whose activities are restricted to:

(1) The providing of clerical, bookkeeping, accounting, statistical, and data processing services primarily for building and loan associations;

(2) The purchase, development, and conveyance of real estate for the purpose of renovating and rehabilitating substandard housing including enrollment in state and federal programs in connection therewith, and for other lawful purposes;

(3) The servicing, purchasing, selling, and making of loans upon real estate and participating interests therein; and

(4) The investment in corporations whose principal activities are community development, urban renewal and industrial development.

Last amended:
Laws 1969, c. 44, § 1, p. 256

~ Reissue Revised Statutes of Nebraska

8-321
Loans; evidence of indebtedness; form; parity with federal associations.

No evidence of indebtedness taken by said association for the return of any loan shall be negotiable in form, and whatever be its form, every such evidence of indebtedness shall be nonnegotiable in law, except as hereinafter provided, and no such debt or evidence of debt shall be assignable or transferable in any manner so as to prevent the discharge thereof by payments to the association, except as hereinafter provided, except that bonds and interest-bearing obligations, in which temporary investments may be made as hereinbefore provided, may be converted into cash in due course.

Notwithstanding the provision of this section, an association may sell or purchase such loans, and enter into such participation loans, as are or may be permitted to federal savings and loan associations doing business in this state.

Last amended:
Laws 1959, c. 21, § 3, p. 150

~ Reissue Revised Statutes of Nebraska

8-322
Membership in Federal Home Loan Bank authorized; power to utilize federal agencies; power to obtain advances; use of funds.

Any building and loan association is hereby authorized (1) to subscribe for the stock of and to become a member of the Federal Home Loan Bank for the district in which it may be located or for the stock of a Federal Home Loan Bank of an adjoining district if demanded by convenience; (2) to obtain advances from the Federal Home Loan Bank System, under the rules and regulations promulgated by the bank of which the association is a member, to obtain advances from any other corporation or agency established by or under authority of the United States Government, and to assign its mortgages or such other assets as may be required as security therefor; and (3) to do and perform such acts as may be necessary and required to avail to it all the advantages and privileges offered by the Federal Home Loan Bank or offered by any other corporation or agency established under the authority of the United States Government or any instrumentality of the United States Government.

Last amended:
Laws 1957, c. 14, § 1, p. 137

~ Reissue Revised Statutes of Nebraska

8-323
Mortgages; assignment to Home Owners' Loan Corporation authorized; condition.

Any building and loan association is hereby authorized, with the approval of its board of directors, to assign its mortgages and the evidence of debt secured thereby to the Home Owners' Loan Corporation created by act of Congress of the United States under the act cited as the Home Owners' Loan Act of 1933, or such other corporation as may be created by authority of the United States Government, or as an instrumentality of the United States Government, and to accept as consideration for such assignment, cash or bonds of such Home Owners' Loan Corporation or such other corporation as may be created by authority of the United States Government, or as an instrumentality of the United States Government; PROVIDED, that no mortgage given by any member of such association shall be so assigned without the written consent of the borrowing member.

Last amended:
Laws 1943, c. 14, § 1(5), p. 80

~ Reissue Revised Statutes of Nebraska

8-324
Stock; availability for purchase of real estate or payment of loan.

Any association, at the discretion of its officers and directors, and with the consent and approval of the Department of Banking and Finance, may accept its stock at the withdrawal value of such shares, to apply on the purchase at its fair market value, of any real estate owned by such association, or to apply in payment or reduction of any loans or contracts of sale on which, in the judgment of the officers and directors, there may be an eventual loss, whether or not notice for withdrawal of such shares shall have been filed, and such action shall not be considered prejudicial to the rights of any stockholders to whom payment on withdrawal notices is being delayed.

Last amended:
Laws 1943, c. 14, § 1(6), p. 80

~ Reissue Revised Statutes of Nebraska

8-325
Real estate; acquisition and disposal; powers; limitations.

Such association may purchase, hold, lease and convey real estate or stock for the following purposes and no others:

(1) Such real estate as it may need to occupy as a place of business;

(2) Such as shall in good faith be conveyed to it in satisfaction of debts contracted in the ordinary course of business;

(3) Such as it shall purchase at sales under judgments, decrees or mortgages held by the association, or shall purchase in good faith to secure debts due;

(4) Such as it shall in good faith acquire as a part of the consideration for the sale or exchange of real estate owned by it;

(5) Such as shall be acquired in salvaging the value of property owned by the association; and

(6) Such as is permitted building and loan service corporations under section 8-320.01. Nothing in this section shall be construed to forbid the mortgaging of real estate to such associations.

Last amended:
Laws 1969, c. 38, § 1, p. 246

~ Reissue Revised Statutes of Nebraska

8-326
Reserve fund; requirements; replenishment; increase; reduction; division for federal tax purposes; special increase; approval by department.

Every association organized under the laws of this state for the purposes set forth in section 8-302, except such associations as are conducted upon the serial plan and in which the various series are operated wholly separate and distinct from each other, shall provide a reserve fund for the payment of contingent losses, by setting aside at least five percent of the net earnings for each year to such fund until it reaches at least five percent of the total assets of the association exclusive of cash on hand. Any credit to a reserve account required by any federal agency shall be considered to apply to the reserve fund requirement of this section.

All losses shall be paid out of such fund until the same is exhausted, and whenever the amount in the fund falls below five percent of the total assets, it shall be replenished by annual appropriations of at least five percent of the net earnings until it again reaches the amount. The board of directors shall have power to increase the reserve above five percent, but not to exceed twelve percent, if determined that it is to the best interest of the association and its shareholders. An association may establish such other and additional undivided profits accounts or special reserves as may be ordered by its board of directors. The board of directors may, for federal tax purposes, divide the reserve fund, surplus account, and undivided profits account, in accordance with the provisions of the Internal Revenue Code and regulations adopted pursuant thereto. If, in the opinion of a majority of the board of directors of any such association, a reserve fund of twelve percent is insufficient at any time to cover the probable losses among the assets, or if for other good and sufficient reason they determine it to be for the best interests of the association and its shareholders that the reserve fund be maintained or increased, they shall have power to maintain or increase the fund from the net earnings to an amount not greater than the sum of such probable losses or greater than sufficient to best serve the interest of the association and its shareholders as by them determined. Such special increase of the reserve fund shall first be

approved by the Department of Banking and Finance, and if, in the opinion of the department after an examination, such special increase of the reserve fund is deemed necessary or advisable for the protection of stockholders, the department may order such reserve fund increased in like manner and within the same limits as aforesaid. Such reserve fund may at any time, with the consent of the department, be reduced to not less than five percent of the assets.

Last amended:
Laws 1995, LB 574, § 4

~ Reissue Revised Statutes of Nebraska

8-327
Dividends; how and when paid.

Every association of the character defined in section 8-326, shall be required, at least annually, to transfer the residue of earnings, after paying expenses and setting aside a sum for the reserve funds as herein provided, as a dividend to members holding share accounts. All such members shall participate in earnings pro rata to the withdrawal value of their respective accounts, except that an association may classify its share accounts according to the character, amount, or duration thereof, or regularity of additions thereto, and may agree in advance to pay an additional rate of earnings, over and above the minimum rate of earnings paid on share accounts, on accounts based on such classifications, and shall regulate such earnings in such manner that each share account in the same classification shall receive the same ratable portion of such additional earnings. Earnings may be declared on the withdrawal value of each share account at the beginning of the accounting period, plus additions thereto made during the period, less amounts previously withdrawn and amounts covered by notice for withdrawal which for earnings purposes shall be deducted from the latest previous additions thereto, computed at the declared rate for the time the funds have been invested determined as next provided. The date of investment shall be the date of actual receipt by the association of an account or an addition to an account, except that if the board of directors shall so determine, accounts in one or more classifications or additions thereto received by the association on or before a date not later than the twentieth day of the month, unless the day determined is not a business day and in such case it may be the next succeeding business day, shall receive earnings as if invested on the first day of the month in which such payments were received; and if the board shall make such determination, it also shall determine that payments received subsequent to such determination date shall either (1) receive earnings as if invested on the first day of the next succeeding month, or (2) receive earnings from the date of actual receipt by the association. The directors shall determine by resolution the method of calculating the amount of any earnings on share accounts as herein provided, and the time or times when earnings are to be declared, paid, or credited, but the association shall not be required to credit or pay dividends on inactive share accounts of fifty dollars or less.

Last amended:
Laws 1967, c. 26, § 1, p. 135

8-328
Records; requirements.

(1) Complete and adequate records of all accounts and of all minutes of proceedings of the members, directors and executive committee shall be maintained at all times at the office of the association. Records may be kept by hand, mechanical or electronic means.

(2) Every association shall maintain membership records, which shall show the name and address of the member, whether the member is a share account holder, or a borrower, or a share account holder and borrower, and the date of membership thereof. In the case of account-holding members, the association shall obtain a card containing the signature of the owner of such account or his duly authorized representative and shall preserve such signature card in the records of the association.

(3) Associations shall not be required to preserve or keep their records or files for a longer period than five years next after the first day of January of the year following the payment in full of a mortgage or other loan or the closing of a savings or investment account or the final closing or completion of any other contract or transaction; PROVIDED, that ledger sheets showing unpaid accounts in favor of members of such savings and loan associations shall not be destroyed.

(4) No liability shall accrue against any association destroying any such records after the expiration of the time provided in subsection (3) of this section, and in any cause or proceedings in which any such records or files may be called in question or be demanded of the association or any officer or employee thereof, a showing that such records and files have been destroyed in accordance with the terms of subsection (3) of this section shall be a sufficient excuse for the failure to produce them.

(5) All causes of action against an association based upon a claim or claims inconsistent with an entry or entries in any savings and loan association record or ledger, made in the regular course of business, shall be deemed to have accrued, and shall accrue, one year after the date of such entry or entries; and no action founded upon such a cause may be brought after the expiration of five years from the date of such accrual.

(6) The provisions of this section, so far as applicable, shall apply to the records of federal savings and loan associations.

(7) Any association may cause any or all records kept by such association to be copied or reproduced by any photostatic, photographic or microfilming process which correctly and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material and such association may thereafter dispose of the original record. Any such copy or reproduction shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the

purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of any such copy or reproduction reproduced from a film record shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original.

Last amended:
Laws 1963, c. 34, § 1, p. 195

~ Reissue Revised Statutes of Nebraska

8-329
Taxation; real estate.

The real estate of such associations shall be subject to taxation in the same manner as provided by law in the case of other corporations and individuals.

Last amended:
Laws 1971, LB 3, § 1

~ Reissue Revised Statutes of Nebraska

8-330
Loans; charges authorized; statement; interest rate.

Every association may require borrowing members to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Such expenses may include abstract, recording, and registration fees, title examinations, survey, escrow services, and taxes or charges imposed upon or in connection with the making and recording of any mortgage. Such reasonable charges may be collected by the association from the borrower and shall not be considered interest or a charge for the use of the money loaned. A charge not exceeding one percent or that allowed a federally chartered association for the premature prepayment may be made. The rate of interest on any loan of money shall be determined and computed upon the assumption that the debt will be paid according to the agreed terms and in the event the loan is paid or collected by court action prior to the term of the loan, any payment charged, received, or taken as an advance or forbearance which is in the nature of and taken into account in the calculation of interest, shall be spread over the stated term of the loan for the purpose of determining the rate of interest. Any amounts paid or contracted to be paid by persons other than the borrower shall not be considered interest and shall not be taken into account in the calculation of interest. Interest may be paid on escrow accounts held for the payment of taxes, insurance, and similar payments, if agreed to in writing by the borrower and association. Loans may be made by an association under a license granted it pursuant to the Nebraska Installment Loan Act, to borrowing members whose loans are secured by real estate, to the same extent and in the same amount as such loans may lawfully be made to nonborrowing members. The association shall furnish a loan settlement statement to each borrower, indicating in detail the charges and fees such borrower has paid or obligated himself or

herself to pay to the association or to any other person in connection with such loan. A copy of such statement shall be retained in the records of the association.

An association may charge and receive interest, on property improvement loans including loans made under Title I of the National Housing Act, as amended, and unsecured loans authorized in section 5(c) of the Home Owners' Loan Act, as amended.

Last amended:
Laws 2001, LB 53, § 5

Cross References:
Nebraska Installment Loan Act,see section 45-1001.

~ Revised Statutes Cumulative Supplement, 2006

8-331
Articles of incorporation; bylaws; filing; certificate of approval; application; contents; approval by Department of Banking and Finance.

Every association shall adopt articles of incorporation and bylaws. A copy of the articles of incorporation and bylaws of every such association shall be filed in the office of the Department of Banking and Finance, together with an application for a certificate of approval and payment of the examination fee prescribed by section 8-602. The application shall furnish and set forth facts and information desired by the Department of Banking and Finance. The department, upon completion of its investigations and its examination of the articles, bylaws, and application for certificate of approval, shall issue a certificate of approval of the association and articles of incorporation and bylaws, but no such certificate of approval shall be issued unless and until the department has determined:

(1) That the articles of incorporation and bylaws conform to the requirements of sections 8-301 to 8-384 and contain a just and equitable plan for the management of the association's business;

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

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

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

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

No such association shall transact any business, except the execution of its articles of incorporation, the adoption of bylaws, and the election of directors and officers, until it has procured a certificate of approval under this section. No amendment of the articles of

incorporation or bylaws of any such association shall become operative until a copy of the amendment has been filed and a certificate of approval obtained under this section in regard to the original articles of incorporation and bylaws.

Last amended:
Laws 2005, LB 533, § 18

~ Revised Statutes Cumulative Supplement, 2006

8-332
Annual statement; publication; special reports; violation; penalty.

Every such association shall, at the close of business on June 30 of each year and at such other times as required by the Department of Banking and Finance, file in the office of the department, within thirty days after the receipt of a request for a requisition therefor, a statement verified by the oath of its president or secretary and approved by three of its directors in such form as may be prescribed by the department, setting forth its actual financial condition and the amount of its assets and liabilities and furnishing such other information as to its affairs as the department may require. A copy of such annual statement shall be published in a newspaper of general circulation, in the county where such association is located, three consecutive times, and due proof of such publication, by affidavit, shall be filed with the department. The department may call for special reports from any such association whenever in its judgment such reports may be necessary or advisable, but no other or further notice or statement of the amount of the existing debts of such corporation shall be required to be published than that on June 30. Any association failing to comply with this section shall pay to the department fifty dollars for each day such noncompliance continues unless the department extends the filing deadlines for such reports and proofs of publication.

Last amended:
Laws 1988, LB 993, § 1

~ Reissue Revised Statutes of Nebraska

8-333
False statement or book entry; penalty.

Every person who shall willfully or knowingly subscribe, or make, or cause to be made, any false statement or any false entries in any book of any association organized for the purpose set forth in section 8-302, or exhibit any false paper with the intent to deceive any person authorized to examine into the affairs of such association, or shall make, state or publish any false statement of the financial condition of such association, shall be guilty of a Class IV felony.

Last amended:
Laws 1977, LB 40, § 57

~ Reissue Revised Statutes of Nebraska

8-334
Liquidation; insolvency; powers and duties of Department of Banking and Finance; writs of assistance.

Whenever it appears to the Department of Banking and Finance that the assets of any association or corporation organized under the laws of this state for the purpose set forth in section 8-302 do not equal the liabilities, that it is conducting its business in an unsafe or unauthorized manner, that it is jeopardizing the interest of its members, or that it is unsafe for such association or corporation to transact business, the department shall take possession of the books, records, and assets of every description of such association or corporation, and the department shall have full authority to retain such possession as against any mesne or final process issued by any court against such association or corporation whose property has been taken possession of by the department, pending the further proceedings specified in sections 8-301 to 8-340.01. If such possession is refused by the secretary, managing officer, or person in charge of such association or corporation, the department shall communicate such fact to the Attorney General together with a copy of such order of possession and it shall become the duty of the Attorney General to apply to the Court of Appeals or to the district court or county court of the county where such association or corporation is located or to a judge of any such court for a writ of assistance in placing the department in immediate possession of such association or corporation. It shall be sufficient to authorize the issuance of the writ and the taking possession of such association or corporation under the writ if it is made to appear that possession was refused.

Last amended:
Laws 2000, LB 932, § 11

~ Revised Statutes Cumulative Supplement, 2006

8-335
Liquidation; insolvency; special shareholders' meeting; report of department.

The Department of Banking and Finance shall, within ten days next after acquiring possession of such association, convene a special meeting of the shareholders. Notice of such special meeting shall be given by publication in a newspaper of general circulation in the county where such association is located and by written or printed notice posted in a conspicuous place in the office or place of business of the association. At such meeting the department shall present a full report of the affairs and condition of such association as found by its examination thereof.

Last amended:
C.S.1929, § 8-320

~ Reissue Revised Statutes of Nebraska

8-336
Liquidation; insolvency; inventory; collection of assets; expenses.

The Department of Banking and Finance, or any person authorized by it, shall, after having taken possession of the association under section 8-334, and pending the further proceedings specified in sections 8-301 to 8-340.01, prepare, or have prepared, a full and true exhibit of the affairs, property, and condition of such association, including an itemized statement of all its assets and liabilities. The department shall also receive and collect all debts, dues, and claims belonging to it, pay the immediate and reasonable expense of its trust, receive and receipt for all monthly payments becoming due after the date of coming into possession of the association, and keep the same separate and apart from the other money and effects of such association.

Last amended:
Laws 2000, LB 932, § 12

~ Revised Statutes Cumulative Supplement, 2006

8-337
Insolvency; reorganization; surrender of assets by Department of Banking and Finance.

If at the special meeting of the shareholders they shall vote to reorganize such association, the Department of Banking and Finance, upon the consummation of the reorganization thereof, and the approval of the department, shall turn over to the new management all the books, papers and effects of every description in its hands belonging to such association.

Last amended:
C.S.1929, § 8-322

~ Reissue Revised Statutes of Nebraska

8-338
Voluntary liquidation; disposition of payments, other property; duty of Department of Banking and Finance.

If at the special meeting of the shareholders they shall vote to go into voluntary liquidation or to otherwise close up or discontinue the business of such association, the Department of Banking and Finance shall return to the shareholders all monthly payments and other payments on subscriptions for stock received and receipted for by it, and which became due and payable after the date of taking possession. All books, papers and effects of every description in its hands, belonging to such association not so returnable, shall be turned over and delivered to the person or persons entitled thereto.

Last amended:
C.S.1929, § 8-323

~ Reissue Revised Statutes of Nebraska

8-339
Involuntary liquidation; duty of Department of Banking and Finance.

If the Department of Banking and Finance after having called a meeting of the shareholders as herein provided, shall find that the association cannot be reorganized or that voluntary liquidation by the shareholders cannot be had or consummated, the department shall take charge of such building and loan association and proceed to liquidate such association in the manner provided for the liquidation of insolvent banks.

Last amended:
C.S.Supp.,1941, § 8-324

~ Reissue Revised Statutes of Nebraska

8-340
Rules and regulations.

The Department of Banking and Finance has power to make such rules and regulations for the government of all associations of the character defined in sections 8-301 to 8-340.01 as may, in its judgment, seem wise and expedient.

Last amended:
Laws 2000, LB 932, § 13

Cross References:
For adoption and promulgation of administrative rules,see Chapter 84, article 9.

~ Revised Statutes Cumulative Supplement, 2006

8-340.01
Executive officers and employees; bonding requirements.

Each and every executive officer and such other employees as the Department of Banking and Finance deems necessary of each building and loan association shall execute to such association and to the State of Nebraska, jointly, a corporate surety bond in an amount fixed by the department, said amount to be equal or uniform as to all associations in accordance with their size. In lieu of individual corporate surety bonds, the Director of Banking and Finance may

accept a blanket corporate surety bond. All surety bonds shall be conditioned to protect and indemnify the association from any and all pecuniary loss, which the association may sustain, of money or other personal property, including that for which the association is responsible, through or by reason of the fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction, misapplication, misappropriation, or any other dishonest or criminal act, of or by any of said executive officers or employees of the association. Such bond or bonds shall be filed with and approved by the director, remain a part of the records of the department, and be open to public inspection during the office hours of the department.

Last amended:
Laws 1953, c. 13, § 1, p. 79

~ Reissue Revised Statutes of Nebraska

8-341
Repealed. Laws 1949, c. 9, s. 2.

~ Reissue Revised Statutes of Nebraska

8-342
Repealed. Laws 2000, LB 932, s. 56.

~ Revised Statutes Cumulative Supplement, 2006

8-343
Repealed. Laws 2000, LB 932, s. 56.

~ Revised Statutes Cumulative Supplement, 2006

8-344
Repealed. Laws 2000, LB 932, s. 56.

~ Revised Statutes Cumulative Supplement, 2006

8-345
Repealed. Laws 2000, LB 932, s. 56.

~ Revised Statutes Cumulative Supplement, 2006

8-345.01
Automatic teller machines; authorized.

Nothing in section 8-157 shall prohibit building and loan associations as defined in sections 8-301 to 8-340.01 from establishing and operating new automatic teller machines for the purpose of transmitting savings and loan transactions.

Last amended:
Laws 2003, LB 131, § 6

~ Revised Statutes Cumulative Supplement, 2006

8-345.02
New branch; limitation.

No building and loan association organized under the provisions of Chapter 8, article 3, shall establish any new branch on or after March 26, 1992, except to the extent provided for banks in section 8-157.

Last amended:
Laws 2002, LB 1089, § 6

~ Revised Statutes Cumulative Supplement, 2006

8-346
Books; examination.

(1) The Director of Banking and Finance, his or her deputy, or any duly appointed examiner shall have power to make a thorough examination into all the books, records, business, and affairs of every building and loan association organized under the laws of this state as often as deemed necessary. The director may accept in his or her discretion, in lieu of any examination authorized by the laws of this state, a report of an examination made of a building and loan association by the Federal Deposit Insurance Corporation or the Office of Thrift Supervision, or the director may examine any such association jointly with either of these federal agencies.

(2) The director may, at his or her discretion, make available to the Federal Deposit Insurance Corporation or the Office of Thrift Supervision copies of reports of any such examination or any information furnished to or obtained by him or her in such examination. The rights, powers, duties, and privileges of the director, his or her deputy, or any duly appointed examiner in connection with such examinations shall be the same as is or may be provided by law in reference to the examinations of banks.

Last amended:
Laws 2000, LB 932, § 15

~ Revised Statutes Cumulative Supplement, 2006

8-347
State association; conversion into federal savings and loan association; procedure.

Any building and loan association or other home financing organization by whatever name or style it may be designated, eligible to become a federal savings and loan association, may convert itself into a federal savings and loan association by following the procedure hereinafter outlined:

(1) At any regular meeting of the shareholders of any such association or at any special meeting of the shareholders of such association, in either case called to consider such action and held in accordance with the laws governing such association, such shareholders by an affirmative record vote of the shareholders owning and voting two-thirds of the total number of shares outstanding, present in person or by proxy, may declare by resolution the determination to convert said association into a federal savings and loan association;

(2) A copy of the minutes of such meeting of the shareholders verified by the affidavit of the president or vice president and the secretary of the meeting, shall be filed within ten days after said meeting in the office or department of this state having supervision of such association; and such verified copy of the minutes of such meeting when so filed shall be presumptive evidence of the holding and of the action of such meeting;

(3) Within a reasonable time and without any unnecessary delay after the adjournment of such meeting of shareholders, such association shall take such action as may be necessary to make it a federal savings and loan association, and within ten days after receipt of the federal charter there shall be filed in the office or department of this state having supervision of such association, a copy of the charter issued to such association by the Federal Home Loan Bank Board or a certificate showing the organization of such association as a federal savings and loan association certified by, or on behalf of, the Federal Home Loan Bank Board. Upon the filing of such instrument such association shall cease to be a state association and shall thereafter be a federal savings and loan association.

Last amended:
C.S.Supp.,1941, § 8-332

~ Reissue Revised Statutes of Nebraska

8-348
State association; conversion into federal association; transfer of supervision; status of

property owned; continuation of association.

At the time when such conversion becomes effective as provided in section 8-347, such association shall cease to be supervised by this state and all of the property of such association, including all of its right, title and interest in and to all property of every kind and character whether real, personal or mixed, shall immediately by operation of law and without any conveyance or transfer whatsoever and without any further act or deed, continue to be vested in said association under its new name and style as a federal savings and loan association and under its new jurisdiction. Said federal savings and loan association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by it as a state association, and said federal savings and loan association at the time of the taking effect of such conversion shall continue responsible for all of the obligations of said state association to the same extent as though said conversion had not taken place. It is hereby expressly declared that the said federal savings and loan association shall be merely a continuation of the said state association under a new name and new jurisdiction and such revision of its corporate structure as may be considered necessary for its proper operation under said new jurisdiction.

Last amended:
C.S.Supp.,1941, § 8-333

~ Reissue Revised Statutes of Nebraska

8-349
State associations; consolidation or merger; procedure; powers and duties of Department of Banking and Finance.

When any savings and loan association or building and loan association organized under the laws of this state shall, by its duly qualified officers and board of directors, propose to consolidate or merge with any other savings and loan association or building and loan association or associations, each such association shall present the proposed plan of consolidation or merger, together with a statement of the condition of the affairs of such association to the Department of Banking and Finance for its approval. Should the plan be approved by the department, the same shall be submitted to a regular or special meeting of the shareholders of each such association; and notice of such meeting shall be given as the department may direct. Such plan for consolidation or merger may include and provide for a reduction in the capital stock of the association or associations and of the nominal or book value of the shares, thereof, for the issuance of new certificates in lieu thereof, and for the distribution of any part of the assets of such association among its shareholders. If, at such meeting of the shareholders of any such association, not less than one-third of the shareholders vote affirmatively, either in person or by proxy, to adopt the proposed plan, as the same is approved and submitted by the Department of Banking and Finance, the department shall, upon notice of the favorable result of the shareholders meeting, direct each of such associations to put into effect the plan of consolidation or merger so approved; and such plan shall be in force and effect from and after the date of such order; PROVIDED, that such consolidation or merger shall not be

approved and put into effect unless approved by a majority of those voting on the consolidation or merger. There is hereby vested in the Department of Banking and Finance full power and authority to issue and enforce such orders having to do with carrying out of the plan of consolidation or merger adopted as shall be necessary and requisite for the protection of the shareholders, and distribution of the assets of the associations involved in the consolidation or merger.

Last amended:
Laws 1969, c. 40, § 1, p. 248

~ Reissue Revised Statutes of Nebraska

8-350
Federal savings and loan association; conversion into state association; procedure.

Any federal savings and loan association, having its principal place of business and home office in the State of Nebraska, if permitted by federal law, may convert itself into a state association under Chapter 8, article 3, and amendments thereto, in accordance with the following procedure:

(1) At any regular meeting of the shareholders of any such association, or at any special meeting of the shareholders of such association, in either case called to consider such action and held in accordance with the laws governing such association, such shareholders by an affirmative record vote of the shareholders owning and voting two-thirds of the total number of shares outstanding, present in person or by proxy, may declare by resolution the determination to convert said association into a state association as provided in Chapter 8, article 3, and amendments thereto.

(2) A copy of the minutes of such meeting of the shareholders certified by the president or vice president and the secretary of the meeting, shall be filed within ten days after such meeting in the office of the Department of Banking and Finance, and a copy shall be mailed to the Federal Home Loan Bank Board, Washington, D.C., within ten days after such meeting. Such certified copy of the minutes of such meeting when so filed in the office of the Department of Banking and Finance shall be presumptive evidence that such meeting was held and that it took the action therein set forth.

(3) Within a reasonable time and without any unnecessary delay after the adjournment of such meeting of shareholders, such association shall take all necessary action to comply with requirements of the federal law for conversion to a state association.

(4) At the meeting at which conversion is voted upon, the members shall vote upon and elect in the usual manner the persons who shall be the directors of the state association as provided by sections 8-350 to 8-353; and shall by a majority vote adopt proposed articles of incorporation, constitution, and bylaws to be effective upon conversion into a state-chartered association. The elected directors within a reasonable time and without any unnecessary delay shall sign and

acknowledge said proposed articles of incorporation, constitution, and bylaws as subscribers thereto, which shall be filed in the office of the Department of Banking and Finance in compliance with Chapter 8, article 3, and amendments thereto.

(5) The Department of Banking and Finance within a reasonable time following receipt of a verified copy of the minutes of said meeting, and said proposed articles of incorporation, constitution, and bylaws, shall examine the same carefully, and if it finds that the requirements of the provisions of sections 8-350 to 8-353 are satisfied, that said articles of incorporation, constitution, and bylaws conform to the requirements of Chapter 8, article 3, and amendments thereto, and contain a just and equitable plan for the management of the association's business, it shall issue to such association a certificate of its approval of such articles of incorporation, constitution, and bylaws; PROVIDED, that no such certificate of approval shall be issued until a thorough examination into all the books, papers, and affairs of such association has been made by the Director of Banking and Finance, his deputies, or duly appointed examiners and the director, after a careful consideration of such examination, has found said association (a) to be in sound condition, (b) to be conducting its business in a manner conforming to the laws of Nebraska governing state-chartered building and loan associations, (c) is not committed to any obligations or liabilities which a similar association chartered under the laws of Nebraska might not properly incur, and (d) does not carry as assets on its books any assets which a similar association chartered under the laws of Nebraska could not properly so carry. The department shall charge such federal savings and loan association for such examination upon the same basis as charges are made for examination of state associations.

Last amended:
Laws 1949, c. 7, § 1, p. 65

~ Reissue Revised Statutes of Nebraska

8-351
Federal savings and loan association; conversion into state association; certificate of approval; supervision.

Upon the issuance by the Department of Banking and Finance of a certificate of its approval of said articles of incorporation, constitution, and bylaws, the conversion of any such federal savings and loan association into a state association shall become effective, and said association shall thereupon be subject to the exclusive supervision and control of the department as provided in Chapter 8, article 3, and amendments thereto.

Last amended:
Laws 1949, c. 7, § 2(1), p. 67

~ Reissue Revised Statutes of Nebraska

8-352
Federal savings and loan association; conversion into state association; status of property owned; obligation.

All of the property of such association, including all of its right, title, and interest in and to all property of every kind and character whether real, personal, or mixed, shall immediately, by operation of law, without any conveyance or transfer whatsoever, and without any further act or deed, continue to be vested in said association under its new name and style as a state association and under its new jurisdiction. Such state association shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by it as a federal savings and loan association. The said state association at the time of the taking effect of such conversion shall continue to be responsible for all the obligations of said federal savings and loan association to the same extent as though said conversion had not taken place.

Last amended:
Laws 1949, c. 7, § 2(2), p. 67

~ Reissue Revised Statutes of Nebraska

8-353
Federal savings and loan association; conversion into state association; effect.

It is hereby expressly declared that said state association shall be merely a continuation of said federal savings and loan association under a new name and new jurisdiction, and such revision of its corporate structure as may be considered necessary for its proper operation under said state jurisdiction.

Last amended:
Laws 1949, c. 7, § 2(3), p. 67

~ Reissue Revised Statutes of Nebraska

8-354
Repealed. Laws 1975, LB 58, s. 1.

~ Reissue Revised Statutes of Nebraska

8-355
Federal savings and loan; associations organized under laws of Nebraska; rights, privileges, benefits, and immunities; exception.

Notwithstanding any of the provisions of Chapter 8, article 3, or any other Nebraska statute,

except as provided in section 8-345.02, any association incorporated under the laws of the State of Nebraska and organized under the provisions of such article shall have all the rights, powers, privileges, benefits, and immunities which may be exercised as of March 20, 2008, by a federal savings and loan association doing business in Nebraska. Such rights, powers, privileges, benefits, and immunities shall not relieve such association from payment of state taxes assessed under any applicable laws of this state.

Last amended:
Laws 2008, LB 851, § 11
Operative date March 20, 2008

8-356
Capital stock savings and loan association, defined; capital stock; how treated.

(1) A capital stock savings and loan association, referred to in sections 8-356 to 8-384 as a capital stock association, shall mean a financial institution incorporated under sections 8-356 to 8-384 having for its purposes the encouragement of home financing, the accumulation of capital through the issuance and sale of its stock, the acceptance of such accounts, referred to in sections 8-356 to 8-384 as deposits, as may be authorized for mutual savings and loan associations, and the lending of funds so accumulated in accordance with the powers conveyed to mutual associations by Chapter 8, article 3. A capital stock association shall issue a class of stock known as capital stock. The par value shall be stated in the articles of association and bylaws and approved by the Department of Banking and Finance. The consideration for capital stock which has a par value shall be credited to the capital stock account at its par value and any excess shall be credited to paid-in surplus and both shall be maintained as the fixed and permanent capital of the association. Participation in the management of the association shall be limited to the holders of capital stock.

(2) Capital stock shall be a reserve to absorb losses after all surplus, undivided profits, and other reserves available for losses have been depleted.

(3) Capital stock shall not be subject to redemption except on dissolution and shall then be eligible for redemption only after all accounts, deposits, and other creditors, including the Federal Deposit Insurance Corporation in the case of an insured institution, have been paid in full, together with accrued interest.

Last amended:
Laws 1992, LB 757, § 9

~ Reissue Revised Statutes of Nebraska

8-357
Definitions, sections found.

For purposes of sections 8-356 to 8-384, unless the context otherwise requires, the definitions found in sections 8-358 to 8-370 shall be used.

Last amended:
Laws 1981, LB 500, § 2

~ Reissue Revised Statutes of Nebraska

8-358
Association, defined.

Association shall mean a savings and loan association, referred to as a building and loan association, or loan and building association, building association, savings and loan association, or loan and savings association, incorporated and now existing under the laws of this state or incorporated under sections 8-356 to 8-384.

Last amended:
Laws 1981, LB 500, § 3

~ Reissue Revised Statutes of Nebraska

8-359
Department, defined.

Department shall mean the Department of Banking and Finance.

Last amended:
Laws 1981, LB 500, § 4

~ Reissue Revised Statutes of Nebraska

8-360
Capital accounts, defined.

Capital accounts shall mean capital stock, undivided profits, surplus, and reserves.

Last amended:
Laws 1981, LB 500, § 5

~ Reissue Revised Statutes of Nebraska

8-361
Certificate of approval, defined.

Certificate of approval shall mean a certificate issued by the Department of Banking and Finance and approved by the director.

Last amended:
Laws 1981, LB 500, § 6

~ Reissue Revised Statutes of Nebraska

8-362
Director, defined.

Director shall mean the Director of Banking and Finance.

Last amended:
Laws 1981, LB 500, § 7

~ Reissue Revised Statutes of Nebraska

8-363
Existing mutual association, defined.

Existing mutual association shall mean a mutual association which was authorized to do business in Nebraska on August 30, 1981.

Last amended:
Laws 1981, LB 500, § 8

~ Reissue Revised Statutes of Nebraska

8-364
Foreign association, defined.

Foreign association shall mean any firm, company, association, partnership, limited liability company, or corporation actually engaged in the business of a savings and loan association which is not organized under the laws of this state or of the United States.

Last amended:
Laws 1993, LB 121, § 89

~ Reissue Revised Statutes of Nebraska

8-365
Net worth of a stock association, defined.

Net worth of a stock association shall mean the aggregate of the capital stock account, paid-in surplus, earned surplus, legal and federal insurance reserves, and undivided profits.

Last amended:
Laws 1981, LB 500, § 10

~ Reissue Revised Statutes of Nebraska

8-366
Capital stock, defined.

Capital stock shall mean that part of the capital or liabilities of an association representing ownership of the association and which is not subject to being withdrawn or the value paid to the holder of such stock until all other liabilities of the association have been fully liquidated and paid.

Last amended:
Laws 1981, LB 500, § 11

~ Reissue Revised Statutes of Nebraska

8-367
Savings deposit, defined.

Savings deposit shall mean a savings account in an association qualified to accept deposits and on which the association pays interest or dividends, whether at a fixed or indeterminate rate.

Last amended:
Laws 1981, LB 500, § 12

~ Reissue Revised Statutes of Nebraska

8-368
Stockholder, defined.

Stockholder shall mean a person who is a holder of record of shares in a corporation.

Last amended:
Laws 1981, LB 500, § 13

~ Reissue Revised Statutes of Nebraska

8-369
Withdrawable account, defined.

Withdrawable account shall mean a savings deposit or other authorized account or deposit of an association which does not represent capital stock.

Last amended:
Laws 1981, LB 500, § 14

~ Reissue Revised Statutes of Nebraska

8-370
Withdrawal value, defined.

Withdrawal value shall mean the amount paid to an association on a savings deposit plus earnings credited to such account or deposit less lawful deductions.

Last amended:
Laws 1981, LB 500, § 15

~ Reissue Revised Statutes of Nebraska

8-371
Capital stock association; organization; prerequisites.

No capital stock association may be organized unless, prior to the filing of its articles of incorporation and bylaws, such amounts of its capital stock set forth in department rules and regulations or as the director shall deem adequate, shall have been subscribed for and paid into the association. Every stock association shall also obtain insurance of accounts from an agency of the federal government prior to commencing operation.

Last amended:
Laws 1981, LB 500, § 16

~ Reissue Revised Statutes of Nebraska

8-372
Capital stock association; application; contents.

Every corporation organized for and desiring to conduct a capital stock association shall make under oath and transmit to the department a complete detailed application, giving the name of the proposed capital stock association, a certified copy of the articles of incorporation, the names of the stockholders, the county, city, or village and the exact location within such city or village where such association is proposed to be located, the nature of the proposed capital stock association business, the proposed amounts of capital stock, surplus, and undivided profits, and the items of actual cash and property, as reported and approved at a meeting of the stockholders.

Last amended:
Laws 1981, LB 500, § 17

~ Reissue Revised Statutes of Nebraska

8-373
Capital stock association; articles of incorporation; application; file information with department; examination fee.

A copy of the articles of incorporation and bylaws of every association applying under section 8-372 shall be filed with the department together with an application for a certificate of approval and payment of the examination fee prescribed by section 8-602. The application shall furnish and set forth information as may be required by the department's rules and regulations and the information required by sections 8-356 to 8-384.

Last amended:
Laws 2003, LB 217, § 12

~ Revised Statutes Cumulative Supplement, 2006

8-374
Department; hearing on application; notice; purpose.

Prior to issuing a certificate of approval, the department, upon receiving an application for a stock savings and loan association, shall publish notice of filing of the application for a period of three weeks in a legal newspaper published in or of general circulation in the county where the applicant proposes to operate the savings and loan association. A public hearing shall be held on each application. The date for hearing the application shall be not more than ninety days after filing the application and not less than thirty days after the last publication of notice. Such hearing shall be held to determine:

(1) Whether the articles of incorporation and bylaws conform to the requirements of sections 8-356 to 8-384 and contain a just and equitable plan for the management of the association's

business;

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

(3) Whether in the department's judgment a need exists for such an institution in the community to be served;

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

(5) Whether the same can be established without undue injury to properly conducted existing local savings and loan associations, whether mutual or capital stock in formation.

The expense of any publication required by this section shall be paid by the applicant.

Last amended:
Laws 2008, LB 851, § 12

Operative date March 20, 2008

8-375
Department; issue certificate of approval; when.

If the department, upon completion of its investigation and the public hearing of the application, is satisfied that such corporation has complied with the requirements of sections 8-356 to 8-384 and department rules and regulations, it shall issue a certificate of approval stating that such corporation has complied with the laws of this state, and granting such savings and loan association the authority to commence business.

Last amended:
Laws 1981, LB 500, § 20

~ Reissue Revised Statutes of Nebraska

8-376
Capital stock association; transaction of business; conditions.

No capital stock association shall transact any business, except the execution of its articles of incorporation, the adoption of the bylaws, and the election of directors and officers, until such association has been approved by the department and such association has submitted to the department evidence of insurance of accounts by an agency of the federal government. This section shall not apply to existing mutual associations operating without such insurance as of August 30, 1981, if they continue to operate as mutual associations.

Last amended:
Laws 1981, LB 500, § 21

~ Reissue Revised Statutes of Nebraska

8-377
Payment to person selling stock prohibited; exception.

No corporation organized for the purpose of conducting a savings and loan association under the laws of this state shall be granted a certificate of approval if there have been any premium, bonus, commission, compensation, reward, salary, or other forms of remuneration paid or promised to be paid, to any person for selling the stock of such corporation, except that reasonable compensation in the form of commissions may be paid to persons or organizations authorized by law to act as brokers of stock for acting in such capacity.

Last amended:
Laws 1981, LB 500, § 22

~ Reissue Revised Statutes of Nebraska

8-378
Mutual association; conversion to capital stock association; authorized; plan of conversion; approval required.

(1) Any state or federal mutual association, if substantial business benefit to the applicant will result, and if otherwise permitted by federal law and regulations, may apply to convert to a state or federal capital stock association, in accordance with the provisions set forth in sections 8-356 to 8-384 and in any rules and regulations that may be adopted or promulgated by the Department of Banking and Finance.

(2) Any applicant subject to subsection (1) of this section seeking to convert its corporate form pursuant to this section shall first obtain approval of a plan of conversion by resolution adopted by not less than a two-thirds majority vote of the total number of directors authorized.

(3) Upon approval of a plan of conversion by the board of directors, such plan and the resolution approving it shall be submitted to the department. The department may approve or disapprove the plan of conversion in its discretion, but shall not approve the plan unless a finding is made, after appropriate examination, that substantial business benefit to the applicant will result, that the plan of conversion is fair and equitable, that the interests of the applicant, its members or stockholders, its savings account holders and the public are adequately protected, and that the converting applicant has complied with the requirements of this section. If the department approves the plan of conversion, the approval, which shall be in writing and sent to the home office of the converting applicant, may prescribe terms and conditions to be fulfilled either before or after the conversion to cause the applicant to conform with the requirements of

sections 8-356 to 8-384. If the department disapproves the plan of conversion, the objections shall be stated in writing and sent to the home office of the converting applicant, and the applicant afforded an opportunity to amend and resubmit the plan within a reasonable time as prescribed by the department. In the event that the department disapproves the plan after such resubmission, written notice of such final disapproval shall be sent by certified mail to the applicant's home office.

Last amended:
Laws 2003, LB 217, § 13

~ Revised Statutes Cumulative Supplement, 2006

8-379
Mutual association; conversion to capital stock association; plan of conversion; approval of members or stockholders; procedure.

If the department approves a plan to conversion in accordance with section 8-378, such plan shall be submitted for adoption to the members or stockholders of the converting association by vote at an annual or special meeting called to consider such action. At least three weeks prior to such meeting, a copy of the plan, together with an accurate summary plan description explaining the operation of the plan and the rights, duties, obligations, liabilities, conditions, and requirements which may be imposed upon such members or stockholders and the converted association as a result of the adoption of such plan, shall be mailed to each member or stockholder eligible to vote at such meeting. The plan of conversion must be approved by not less than sixty percent of the total outstanding shares, which may be voted by proxy or in person at the meeting called to consider such a conversion. If such plan is so approved, action shall be taken to obtain a charter, articles of incorporation, articles of association, or similar instrument, adopt bylaws, elect directors and officers and take such other action as is prescribed or appropriate for the type of corporation into which the converting applicant will be converted. A certified report of the proceedings at such meeting shall be filed promptly with the department.

Last amended:
Laws 1981, LB 500, § 24

~ Reissue Revised Statutes of Nebraska

8-380
Conversion; plan of conversion; requirements.

In any plan of conversion from a capital stock form of organization to a mutual form:

(1) Each savings account holder shall receive without payment a withdrawable account of the same general class in the converted institution equal in amount and equal in time tenure to his or her withdrawable account in the converting capital stock institution;

(2) The plan shall specify how and in what amount the return of capital to each class of stockholder in the form of an exchange of stock for savings accounts shall be effectuated;

(3) The plan shall provide for allocation of voting rights to the holders of savings accounts and the manner of exercise thereof; and

(4) The plan shall provide for evidence of insurance of deposits and other accounts of a withdrawable type by an agency of the federal government.

Last amended:
Laws 1981, LB 500, § 25

~ Reissue Revised Statutes of Nebraska

8-381
Mutual association; conversion; certificate of conversion; issuance; when effective.

If the department finds that a conversion proceeding has been completed in accordance with the requirements of sections 8-378 to 8-380 and any other applicable law and regulations, the department shall issue to the applicant a certificate of conversion, attaching as a part of such certificate a copy of the charter, articles of incorporation, articles of association, or similar instrument. Such conversion shall not become effective until the issuance of the certificate as provided in this section.

Last amended:
Laws 1981, LB 500, § 26

~ Reissue Revised Statutes of Nebraska

8-382
Mutual association; conversion; effect.

Upon the issuance to any applicant of a certificate of conversion as provided in section 8-381, the corporate existence of the converting association shall not terminate, but such association shall be a continuation of the entity so converted and all property of the converted association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, immediately, by operation of law and without any conveyance or transfer and without any further act or deed, shall vest in and remain the property of such converted applicant, and the same shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting applicant, and such converted association, upon issuance of the certificate of such conversion, shall continue to have and

succeed to all the rights, obligations, and relations of the converting association. All pending actions and other judicial proceedings to which the converting association is a party shall not be abated or discontinued by reason of such conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion had not been made, and such converted applicant may continue the actions in its new corporate name. Any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the converting applicant theretofore involved in the proceedings.

Last amended:
Laws 1981, LB 500, § 27

~ Reissue Revised Statutes of Nebraska

8-383
State associations; consolidation or merger; procedure; proposed plan; approval; department; powers.

When any savings and loan association or building and loan association organized under the laws of this state shall, by its duly qualified officers and board of directors, propose to consolidate or merge with any other savings and loan association or building and loan association or associations, each such association shall present the proposed plan of consolidation or merger, together with a statement of the condition of the affairs of such association to the department for its approval. Should the plan be approved by the department, the same shall be submitted to a regular or special meeting of the shareholders of each such association and notice of such meeting shall be given as the department may direct. If, at such meeting of the shareholders of any such association, not less than fifty-one percent of the shareholders vote affirmatively, either in person or by proxy, to adopt the proposed plan, as the same is approved and submitted by the department, the department shall, upon notice of the favorable result of the shareholders' meeting, direct each of such associations to put into effect the plan of consolidation or merger so approved. Such plan shall be in force and effect from and after the date of such order, except that such consolidation or merger shall not be approved and put into effect unless approved by a majority of those voting on the consolidation or merger. There is hereby vested in the department full power and authority to issue and enforce such orders having to do with carrying out the plan of consolidation or merger adopted as shall be necessary for the protection of the shareholders and distribution of the assets of the associations involved in the consolidation or merger.

Last amended:
Laws 1981, LB 500, § 28

~ Reissue Revised Statutes of Nebraska

8-384
Sections, how construed.

In the event of an inconsistency between the provisions of sections 8-356 to 8-384 and the provisions of Chapter 8, article 3, such other provisions shall, to the extent of the inconsistency, be construed to be applicable to mutual associations only and not to the capital stock association.

Last amended:
Laws 1981, LB 500, § 29

~ Reissue Revised Statutes of Nebraska

8-385
Repealed. Laws 2005, LB 533, s. 70.

~ Revised Statutes Cumulative Supplement, 2006