

**RULES
OF
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS**

**CHAPTER 0180-12
OPERATION OF STATE CHARTERED BUILDING
AND LOAN ASSOCIATIONS**

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0180-12-.01 RESERVED

Authority: T.C.A. §§45-3-102 and 45-3-111. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.02 CAPITAL REQUIREMENTS. All associations chartered after the effective date of the Tennessee Savings and Loan Act must comply with the minimum capital requirements as set forth therein. For those associations grandfathered by this act, for the purpose of meeting future capital requirements, the capital base will be that association's capital as of the date of insurance of accounts.

Authority: T.C.A. §§45-3-102 and 45-3-111. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.03 SURPLUS ACCOUNTS OF EXPENSE FUNDS.

- (1) Any or all the capital accounts may be used as reserves required under this act and any combination of such net worth may by action of the association be specifically earmarked as an insurance reserve account to be used solely for absorbing losses.
- (2) Associations must maintain free and encumbered assets represented by capital and surplus in an amount of not less than one percent (1%) of savings and/or deposit liabilities.

Authority: T.C.A. §§45-3-111, 45-3-112, and 45-3-405. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.04 APPLICATION TO ORGANIZE.

- (1) All applications to organize shall, in addition to any other information that may be required, contain truthful, affirmative statements from the incorporators to the effect that:
 - (a) All charges in connection with the application for the certificate of authority and the charter shall be at the expense of the incorporators;
 - (b) No stock subscriber other than the incorporators of an association, shall be charged any expense, except for the incorporation fees;
 - (c) Monies collected from the sale of stock subscriptions will be placed in an escrow account until the certificate of authority is issued; and, that if the application is rejected, monies that were collected from the sale of stock, plus interest in the escrow accounts will be refunded to the stock subscribers.
- (2) All applications to organize shall contain an affidavit signed by all incorporators that the provisions of T.C.A. §§ 45-3-105, 45-3-106 and 45-3-206 have been complied with.

Authority: T.C.A. §45-3-206. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.05 CERTIFICATE OF AUTHORITY. Before a certificate of authority is issued, the following along with the filing of a charter and by-laws, must be filed:

- (1) A statement signed by the incorporators showing that the entire capital, including paid-in surplus (capital stock association) or expense fund (mutual association), has been fully paid in lawful money unconditionally and that the funds representing such capital and, as the case may be, paid-in surplus or expense fund is on hand.
- (2) A certified statement showing the amount on deposit in the bank or banks in which the incorporators have the money deposited.

Authority: T.C.A. §45-3-206. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.06 DEPOSIT ACCOUNT CONTRACTS. All deposit contracts and forms as approved by the deposit insuring agency shall be acceptable as valid contracts under Tennessee law.

Authority: T.C.A. §§45-3-106, 45-3-503, 45-3-518, and 45-3-803. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.07 EVIDENCE OF OWNERSHIP OF ACCOUNTS. Evidence of ownership of accounts as approved by the insuring agency shall be acceptable as proper evidence of accounts.

Authority: T.C.A. §§45-3-106 and 45-3-503. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.08 WITHDRAWAL. If an association is unable to pay immediately all orders of withdrawal, except for accounts of \$300.00 (three hundred dollars) or less, the association will take a written order for withdrawal and shall number, date and file in the order of actual receipt. Withdrawals shall be made in the order of actual receipt as soon as possible.

(Rule 0180-12-.08, continued)

Authority: T.C.A. §45-3-519. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.09 REQUIRED LIQUIDITY.

- (1) The required liquidity shall be established by the approved insuring agency or Federal Home Loan Bank Board and shall be a percentage of the liquidity base.
- (2) Investments with Banks - Definition. An investment with a bank shall mean, and be limited to, a deposit of the funds of an association with a bank. It shall include a loan or other advance to a bank or an investment in bank stock. As used in these regulations, certificate of deposit shall include a time deposit and any other deposit, by whatever name it may be called, on which the association shall directly or indirectly receive any compensation whatsoever therefor in excess of the deposit itself, by way of interest, dividend or otherwise. Demand deposits shall include all other deposits, except certificates of deposit as defined above.
- (3) Deposits Generally. An association shall make its deposits in a bank insured by the Federal Deposit Insurance Corporation and may purchase certificates of deposit issued by said bank as authorized under these regulations. An association depositing its funds or purchasing a certificate of deposit in any bank not maintaining its principal office in the State of Tennessee may do so only if said bank shall have been actively engaged in the banking business for a period of at least five (5) years and have a net worth of at least five million dollars (\$5,000,000).
- (4) Certificates of Deposit. No association shall invest in any certificates of deposit unless:
 - (a) The certificate of deposit, as issued, is registered in the name of the investing association.
 - (b) The total investment in certificates of deposit of the association in any one bank does not exceed 1% of the total assets of the bank or \$100,000, whichever is greater.
 - (c) No association may give or receive consideration of any kind to or from a third party in connection with investment in a certificate of deposit, except reasonable and normal fees to an investment brokerage firm. No association may encumber any such certificate as collateral or otherwise with the issuing bank or any other corporation or person, except to secure an obligation of the association itself. The association shall retain in its portfolio, with respect to each investment in a certificate of deposit, evidence that the certificate is registered. If there is an encumbrance thereon permitted, the portfolio shall disclose all relevant facts with respect thereto.

Authority: T.C.A. §§45-3-401 and 45-3-402. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.10. INVESTMENT RATING. None of the securities or obligations described in T.C.A. § 45-3-601 shall be eligible for investment unless rated in one of the four highest investment grades by one of the following rating services:

- (1) Moody's
- (2) Standard & Poors
- (3) Fitch

(Rule 0180-12-.10, continued)

Authority: T.C.A. §§45-3-402 and 45-3-601(c). **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.11 PERCENT OF ASSETS. An association's investment in capital stock, obligations or other securities of service organizations which assist in furthering or facilitating the association's purposes, powers, or community responsibilities is limited to three (3) percent of the association's total assets.

Authority: T.C.A. §§45-3-402 and 45-3-601(d). **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.12 REAL ESTATE LOANS.

- (1) One to Four Family - Loan to value shall be a maximum of 95% of all real property which constitutes home property or primarily residential property with at least one unit occupied or to be occupied by the borrower. Loan to value of 91-95% shall carry private mortgage insurance from a "qualified private insurer" which is licensed to do business in this state and approved by FNMA or FHLMC, or establish a specific reserve.
- (2) Acquisition and Development - Real estate loans to finance the acquisition and development of land into building lots or sites for home property or primarily residential property shall not exceed 75% of value. Real estate loans for acquisition and development of building lots or sites for the construction of single family dwellings shall not exceed 80% of value.
- (3) Construction - Real estate loans to finance the construction of a home or other primarily residential property shall not exceed 80% of value.
- (4) Commercial - Real estate loans on other improved real estate not specifically home property shall not exceed 80% of value, unless insured by an approved mortgage insurance company, the United States of America, any state or instrumentality of either.
- (5) Unimproved Property - No association shall make a loan to exceed 2/3 of value or invest more than 5% of assets in this type loan.

Authority: T.C.A. §§45-3-402 and 45-3-701. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.13 INSURED OR GUARANTEED LOANS. Every association is hereby authorized to make, without regard to any loan limitation or restriction otherwise imposed by the Tennessee Savings and Loan Act, any loan, secured or unsecured, which is partially insured or guaranteed in any manner and in any amount by the United States, any state, or any instrumentality of either.

Authority: T.C.A. §§45-3-402 and 45-3-702. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.14 LOANS FOR ALTERATION, IMPROVEMENT, REPAIRS AND EQUIPMENT. No association shall make a loan for alteration, improvement, repairs and equipment on any home for an amount in excess of \$15,000 or for a term of more than twenty (20) years. The aggregate total of all such loans made by an association shall not exceed 20% of the assets of the association. Loans for alteration, improvement, repair and equipment that are for amounts in excess of \$5,000 must be secured by a recorded trust deed.

(Rule 0180-12-.14, continued)

Authority: T.C.A. §§45-3-402 and 45-3-703. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.15 MOBILE HOME LOANS.

- (1) Definitions:
 - (a) "Mobile home" - A movable dwelling (for occupancy on land) made of one or more units, and having minimum width of 10 feet, minimum area of 400 square feet, and year-round living facilities for one family, including permanent provision for cooking, eating, sleeping and sanitation.
 - (b) "Mobile home chattel paper" - A document evidencing a loan secured by a first lien on one or more mobile homes and equipment installed therein.
 - (c) "Manufacturer's invoice price" - A manufacturer's itemized charges shown on its invoice, for a specifically identified mobile home, furnishings, equipment and accessories installed by the manufacturer, and freight.
- (2) General Investment Authority. An association, as approved by its Board of Directors, may invest in a mobile home chattel paper by making or buying whole loans or installment sales contracts on mobile homes; provided, that the total investment made under this section may not exceed 20 percent of an association's assets.
- (3) Sound Investment Practices. Appraisals or other generally accepted systems of valuation of used mobile homes shall substantiate the term to maturity of loans made. Chattel paper shall have provisions to protect the association, specifically regarding insurance, taxes, other governmental levies, and maintenance and repairs, and may include any other protection provision which is lawful and appropriate. The association may pay taxes or other governmental levies, and insurance premiums or other similar charges to protect its security interest.
- (4) Retail Financing
 - (a) Insured/Guaranteed Loans - An association may invest in retail mobile home chattel paper which is insured or guaranteed under the National Housing Act or Chapter 37 of Title 38, United States Code, as amended, or which has a commitment for such insurance or guarantee, if satisfactory local servicing of that paper is arranged.
 - (b) Conventional Loans - An association may invest in conventional retail mobile home chattel paper if:
 1. The mobile home is to be maintained as a residence of the owner or an owner's relative;
 2. The mobile home is located at a mobile home park or other permanent or semi-permanent site in the association's regular lending area or within 100 miles of an office of the association's service corporation if the association purchased the loan from such service corporation when the investment is made, or within 90 days thereafter;
 3. The loan is payable in substantially equal monthly installments over 20 years or less; and,
 4. The loan amount (excluding time-price differential or interest, however computed) does not exceed 90 percent of buyer's total costs, including freight, itemized set-up charges,

(Rule 0180-12-.15, continued)

sales or other taxes, and filing or recording fees imposed by law. Insurance premiums may be financed for customary physical damage on the mobile home for an initial policy term not to exceed three years; no other insurance may be financed and included in buyer's total costs.

(5) Purchase of Participation Interests in Mobile Home Chattel Paper.

(a) General - An association may buy, within the 20 percent-of-assets limit, a participation interest in retail mobile home chattel paper which meets all requirements of these regulations, other than lending area restrictions, if:

1. The seller of the participation interest is an institution whose accounts or deposits are insured by the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, or a service corporation thereof, and the seller remains responsible for servicing the chattel paper, either directly, or through a service corporation in the case of an institution seller;
2. The seller retains at least a 25 percent interest in each document evidencing a loan secured by the chattel paper;
3. The chattel paper is secured by a mobile home located, or to be located within 90 days thereafter, at a mobile home park or other permanent or semi-permanent site within 100 miles of any office of the seller or the seller's service corporation which is servicing the chattel paper; provided, that such office is maintained and staffed to properly service loans sold.

(6) Sale of Mobile Home Chattel Paper.

- (a) All mobile home chattel paper and participation interests therein shall be sold without recourse.
- (b) No association may make or sell mobile home loans or participations in such loans if, at the close of its most recent semi-annual period, it has mobile-home-loan scheduled items (other than assets required in a supervisory merger) in excess of 5 percent of its total mobile-home-loan portfolio; provided, that an association may apply to the commissioner for a waiver of this restriction.

Authority: T.C.A. §§45-3-402 and 45-3-703. *Administrative History:* Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.16 OTHER LOANS.

- (1) Every association is authorized to make any type loan that a Federal association can make.
- (2) Variable Rate Mortgage:
 - (a) Standard Adopted; Effect of Changes in Standard - The standard for savings and loan association, upon which variations in the interest rate on mortgage contracts, deeds of trust, real estate sales contracts or any note or negotiable instrument (hereinafter referred to as "note") issued in connection therewith may be based, shall be the last published weighted average cost of savings, borrowings and Federal Home Loan Bank of Cincinnati, or such other Standard as the Commissioner may approve.

(Rule 0180-12-.16, continued)

Subject to the provisions set forth below, an association in exercising its rights to change the interest rate pursuant to a variable interest clause in its note shall effect such changes in such manner as to maintain the same margin above or below the initial interest rate of such note as the last published Standard is above or below the last Standard at the date of such note.

1. Any increase or decrease in the interest rate shall not exceed $\frac{1}{4}$ of 1/% per annum in any semi-annual period and shall not result in a rate more than 2.5 percentage points greater than the rate for the first loan payment due after the closing of the loan.
 2. No increase or decrease in the interest rate in any semi-annual period shall be less than $\frac{1}{10}$ of 1/% per annum except for increases or decreases not previously invoked in full by reason of the $\frac{1}{4}$ of 1/% per annum maximum limitation.
 3. No change in the rate of interest shall be made, and no notice of any such change shall be given, during the first semi-annual period.
 4. After the first semi-annual period, there shall be only one change in any one semi-annual period.
 5. At least six months shall elapse between each change.
 6. Each change in rate shall become effective commencing on the date the monthly installment becomes due during the second month following publication of the Standard for each semi-annual period. Notwithstanding the foregoing, an association may provide in its note that the first change in rate shall become effective with the first loan installment falling due more than 30 days after the first publication of the Standard following expiration of the first semi-annual period of the loan.
 7. Decreases shall be mandatory and increases shall be optional with the lender.
 8. The fact that an association may not have invoked a permissible increase, in whole or in part, shall not be deemed a waiver of the association's right to invoke said increase at any time thereafter within the limits imposed by this subchapter.
- (b) Change in Monthly Payments - An association, in exercising its right pursuant to a variable interest rate clause to change the interest rate, may at the option of the borrower (a) change the amount of the monthly payment of an amortized loan, or (b) reduce or extend the maturity date, or (c) a combination of both (a) and (b), provided the loan will be paid in full in regular monthly installments by the end of the maximum amortization period allowed at the time the instrument was executed or for such additional periods as may be required to amortize the loan without increasing the existing monthly payment, but not to exceed a maximum term of 40 years.
- (c) Modification Agreements - If an association executes a modification agreement with a borrower respecting a mortgage contract, deed of trust, real estate sales contract, or modifies any note or negotiable instrument issued in connection therewith and the modification agreement or modified note includes a variable interest rate, it shall comply with these regulations.
- (d) Notice to Borrowers - If an association changes the interest rate on any instrument evidencing a loan covered by these regulations, it shall notify the borrower in writing of the change and the effect, if any, on the number of installment payments required to pay the remaining balance of the loan. If the change increases the interest rate, the association shall also inform the borrower of his right to prepay all or part of the loan within 90 days of the notice, without a prepayment charge. The notice required under the section shall be deemed given when it is deposited in the United States mail, postage prepaid, addressed to the current owner of the property described in

(Rule 0180-12-.16, continued)

the deed of trust securing the note and any other person personally liable on the loan, as those persons' names and addresses appear on the association's records at the time of giving the notice.

- (3) Graduated Payment Mortgage. (reserved)
- (4) Reserve-Annuity Mortgage. (reserved)

Authority: T.C.A. §§45-3-402 and 45-3-701(c). **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.17 REQUIREMENTS OF LOAN TRANSACTIONS. All loans eligible for investment by an association under the Tennessee Savings and Loan Act shall be subject to the following requirements.

- (1) (a) Application - An association shall obtain on every loan a written application signed by the applicant or applicants which shall contain such necessary and pertinent information with respect to the borrower and/or borrowers and the security as the circumstances may require.
- (b) Appraisal - No real estate loan in excess of \$5,000 shall be made until a person or persons authorized by the Board of Directors to perform appraisals for the association has made a physical inspection and submitted a signed appraisal of the value of the real estate securing such loan.

The signed appraisal shall be governed in writing by the Board of Directors or the loan committee of the association prior to making the investment in the loan and such report shall be kept in the loan record of the association. The appraisal must meet at least the standards as set out by the industry.

As a general rule, the appraisal should contain the essential data to permit an intelligent and informed decision by a person not otherwise acquainted with the property.

- 1. The person or persons making an appraisal must meet the minimum qualifications which have been approved by the Board of Directors. The person or persons making an appraisal shall have no interest, direct or indirect, in the real estate security for the loan or in any loan on the security of such real estate and shall not receive compensation which is affected in any way by the approval or declining of the loan. All persons making appraisals must be approved by the Board of Directors.
- (c) Fees and Charges - Every association may require borrowers to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate or other loans. Without limiting the generality of the foregoing, such expenses may include appraisal, attorney, abstract, recording and registration fees, title examination, title insurance, loan insurance, credit reports, surveys, drawing of papers, escrow services, loan closing costs and taxes or charges imposed upon or in connection with the making and recording of any loan. Every association also may require borrowers to pay the cost of all other necessary and incidental services rendered by the association or by others in connection with all loans authorized by the Tennessee Savings and Loan Act in such reasonable amounts as may be fixed by the Board of Directors. Without limiting the generality of the foregoing, such costs may include the costs of services of inspectors, engineers and architects. Such initial charges may be collected by the association from the borrower and paid to any persons, including any director, officer, or employee of the association rendering such services, or paid directly by the borrower. In lieu of such initial charges to cover such expenses and costs, an association may make a reasonable charge, part or all of which may be retained by the association to be paid to

(Rule 0180-12-.17, continued)

others who render such services; provided, however, that the balance of such charge after all payments are made shall be returned to the borrower. The fees and charges authorized by the Tennessee Savings and Loan Act shall be in addition to the interest collected or agreed to be paid on such loans within the meaning of any law of this State which limits the rate of interest which may be exacted in any transaction. No director, officer, or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for an association, except for services actually rendered as provided for in the Tennessee Savings and Loan Act.

- (d) Late Charge - An association may charge a delinquent charge not to exceed five percent (5%), or amount allowable by the Federal Home Loan Mortgage Corporation, in any one (1) installment more than fifteen (15) days in arrears.
- (e) Loan Register - Every association must maintain a loan register showing at least the following: loan number, borrower, type of loan, amount, sale price, purchased or refinanced and type of property.
- (f) Commitment Fee - A fee collected by an association for its commitment to make a loan, by whatever name such charge may be known, shall be retained as a deferred credit by the association until the loan shall be made, when it shall be included in Initial Loan Charges as above provided. If the loan shall not be made for any reason, the association shall thereupon take into current income such amount of the fee as shall remain after such reimbursement as the commitment agreement may require.
- (g) Exclusions from Initial Loan Charges - Any charges collected by an association in connection with making of a loan, in which the association merely collects the charge and pays the amount so collected to another, shall not be included in the computation of Initial Loan Charges as above required. Such charges may include such officers' fees as are provided by the by-laws of the association, and fees for title examination, appraisal and inspection fees, recording costs, documentary stamps and other charges of a similar nature.
- (h) Current and Deferred Income - These regulations shall not be construed as enlarging, changing, modifying or amending the usuary laws of the State of Tennessee, but rather as establishing accounting principles.
- (i) Sale or Payment of Loan - When any loan shall be sold, or paid in advance of maturity, any profit on the sale, and any deferred credit not then taken into income, shall be thereupon taken into current income.
- (j) Wash Sale or Refinancing - If any loan shall be sold, and shall be repurchased within one year, any profit on the sale, and discount on the repurchase, shall be taken into ratably over the remaining term of the loan.
- (k) Term of Loan - Definition - Where the phrase "term of the loan" is used in the above sections, it means the period of time from making of the loan, or extension, until the loan is to be paid in full under the terms of the documents evidencing the loan, or the extension.
- (l) Evidence of Loan - Every loan shall be evidenced by a note or instrument of obligation for the amount of the loan. The note or instrument shall specify the amount, rate of interest and terms of repayment including any penalty or charge for late payment, and may contain all other terms of the loan contract.
- (m) Insurance - An association shall require the mortgagor to maintain at the mortgagor's expense, so long as his loan may be outstanding, fire and extended coverage insurance upon the

(Rule 0180-12-.17, continued)

improvements on the real or leasehold property securing such loan, in an amount at least sufficient to protect the interest of the association, in a company qualified to do business in the State of Tennessee, and approved by the association. Such insurance shall be appropriately endorsed to reflect the interest of the association in any proceeds payable under such policy; and further provided that an association shall be exempt from the earlier provisions hereof as to any loan or loans where the appraised value of unimproved land upon which its lien is secured equals or exceeds the unpaid principal balance on said loan.

- (n) Payments - 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; provided, however, that if the loan is in default in any manner, payments may be applied by the association as provided in the loan contract. Unless otherwise agreed in writing, any prepayment of principal may, at the option of the association, be applied on the final installment of the note or other obligation until fully paid, and thereafter on the installments in the inverse order of their maturity.
- (o) Provisions for Taxes, Insurance, etc. - An association may require the borrower to pay monthly in advance, in addition to interest or interest and principal payments, the equivalent of one-twelfth (1/12) of the estimated annual taxes, assessments, insurance premiums and other charges upon the real estate or other collateral securing a loan, or any of such charges, so as to enable the association to pay such charges as they become due from the funds so received. The amount of such monthly charges may be increased or decreased so as to provide reasonably for the payment of the estimated annual taxes, assessments, insurance premiums and other charges. The association, at its option, may hold such funds in trust and commingle them with its own funds and advance like amounts for such purposes, or credit such funds as received to the real estate or other loan account and advance a like amount for the purposes stated. If such funds are held in trust or invested in deposit accounts, the amounts shall be pledged to further secure the indebtedness and, if held in open account or credited to the loan account, the amounts when advanced for the purposes stated shall be secured by the deed of trust, mortgage or other instrument with the same priority as the original amount advanced. Every association shall keep a record of the status of taxes, assessments, insurance premiums (unless covered by an umbrella insurance policy), and other charges on all real estate or other collateral securing its loan and on all real and other property owned by it.
- (p) Advances for Taxes, etc. - An association may pay taxes, assessments, insurance premiums and other similar charges for the protection of its interests in properties securing its real estate or other loans. All such payments shall be added to the unpaid balance of the loan and shall be equally secured by the first lien on the property. An association may require life insurance to be assigned as additional collateral upon any real estate loan. In such event, the association shall obtain a first lien upon such policy and may advance premiums thereon. Such premium advances shall be added to the unpaid balance of the loan and shall be equally secured by the first lien on the property as provided above.
- (q) Title Certification - Before an association, its agent, or attorney, shall pay out any money upon a mortgage loan, it shall secure proper assurance that, upon closing, it will receive a title certification from its attorney, or a title insurance policy from a qualified title company, to the effect that:
 - 1. Title is good and merchantable in the mortgagor; and,
 - 2. The association has a first lien or that it has a second lien. In the event that there are liens or encumbrances on the property prior to settlement, the association shall satisfy itself (a) that the encumbrances do not affect the marketability of its security or the amount of its appraisal, and (b) that all prior liens will be discharged, or appropriate provisions made

(Rule 0180-12-.17, continued)

therefor. Promptly after settlement the association shall secure the written title certification, together with a statement of the steps taken to protect the association against any prior liens not then released of record.

3. The certification or opinion must disclose the date and name of the prior title holder or conveyor.

Authority: T.C.A. §§45-3-402 and 45-3-801. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.18 COMPUTATION OF NET BALANCE. It is recommended but not required that an association close its books semi-annually. The annual meeting of the association shall be within three (3) months of the closing of the books.

Authority: T.C.A. §§45-3-402, 45-3-404, and 45-3-801. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.19 DIVIDENDS ON CAPITAL STOCK. Dividends may be paid out of capital surplus or retained earnings so long as the amount paid is not in conflict with the approved insuring agency's rules and regulations.

Authority: T.C.A. §§45-3-402, 45-3-407, and 45-3-801. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.20 BOOKS AND RECORDS; ADVERTISEMENTS; STOCK.

- (1) An association which determines to maintain any of its records by means of data processing services shall notify this Department in writing at least 90 days prior to the date on which such maintenance of records will begin.
- (2) Such notification shall include identification of the records to be maintained by data processing service and a statement as to the location at which such records will be maintained.
- (3) Every association shall be required to follow the bookkeeping and accounting system in accordance with the standard accounting manual for savings and loan associations and shall comply with generally accepted accounting principles and practices.
- (4) The accrual basis must be used by all associations.
- (5) Complete records of its stockholders or members, as the case may be, shall be maintained, which shall show the names and addresses of all stockholders or members and the number of shares of stock or amounts of deposits held by each.
- (6) Machine Accounting - An association may use machine posting of its books and records, but it shall support all settlement or summary sheets with appropriate accounting machine tapes and all other necessary information.
- (7) Posting and Balancing of Books - The books and records of an association shall be posted promptly and be balanced by the appropriate officer or officers of the association no less frequently than monthly. Trial Balances by adding machine or other listing methods shall be taken of all loan and free deposit share accounts at least quarterly. Copies of the Trial Balances shall be retained for at least five (5) years.

(Rule 0180-12-.20, continued)

- (8) Journal Vouchers - An association may use a system of journal vouchers, but in such case all such vouchers shall be serially numbered and retained as part of the permanent records of the association.
- (9) Advertising and Promotional Activities - Association's Advertising File - Each association shall maintain and make available to the Commissioner for inspection at its home office, a chronological file of all forms of advertisement used by it during the preceding eighteen (18) months.
- (10) Misleading Impression - In connection with any loan or investment, an advertisement or any advertising sign as a whole shall not be inaccurate or create a misleading impression even though statements therein, separately considered, are literally truthful.
- (11) Use After Notice - It shall be an unsound business practice to use advertising in connection with any loan or investment after the Commissioner has given written notice that the advertisement is false, misleading or likely to deceive the public.
- (12) Stock and Dividends - Capital stock is non-withdrawable permanent stock by whatever name. Any association authorized by law to issue or maintain shares of Capital Stock must, prior to the payment of any dividend on such Capital Stock, in any dividend period, pay interest on all deposit accounts.
- (13) Certificate - Stated Restrictions - Each certificate heretofore or hereafter issued as evidence of ownership of Capital Stock shall clearly show on its face in a type size no less than 50 points that such stock is "Capital Stock". In addition, each stock certificate shall state the restrictions upon such stock, including the following:
 - (a) The Capital Stock constitutes a secondary reserve for losses.
 - (b) That Capital Stock is non-withdrawable.
 - (c) That Capital Stock is assessable in the hands of the owner thereof to the par value thereof.
 - (d) That Capital Stock is entitled to the payment of dividends only after interest has been paid on all deposit accounts.
 - (e) Such other restrictions with respect to the stock as may be required to appear on the certificate.

Authority: T.C.A. §§45-3-109, 45-3-110, 45-3-402, 45-3-407, and 45-3-803. *Administrative History:* Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.21 REPRODUCTION AND DESTRUCTION OF RECORDS.

- (1) Retention of Records - An association shall retain all its account records, tapes and supporting information for at least five (5) years. Such books, tapes, supporting information and other records shall be available for examination by representatives of the Division at all times.

Authority: T.C.A. §§45-3-803 and 45-3-817. *Administrative History:* Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.22 ANNUAL REPORT. The annual audit report shall be in the form prescribed by the Federal Home Loan Bank Board Bulletin PA-7A (which may change from time to time) and any other requirements that are made by the insuring agency.

(Rule 0180-12-.22, continued)

Authority: T.C.A. §45-3-810. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.23 ADDITIONAL AND SPECIAL REPORTS. Every association shall send to this Department copies of all reports that are required by the Federal Home Loan Bank Board and/or the insuring agency.

Authority: T.C.A. §45-3-810. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.24 PUBLICATION OF FINANCIAL STATEMENT. Every association shall prepare and publish on or before thirty (30) days after the close of the association's fiscal year in a newspaper in the county of its main office a statement of its financial condition and such statement shall be consistent in form to that required for publication by the insuring agency and with the industry in general.

Authority: T.C.A. §45-3-811. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.25 CAPITAL REQUIREMENTS FOR BRANCH. Each association in "COMPLIANCE" (which means an association in existence and complying with capital requirements for insurance of accounts as of July 1, 1978) with minimum capital requirements without regard to composition of such capital shall be required to have additional capital for each branch over and above that required for "COMPLIANCE" of \$50,000 for counties having a population up to 10,000; \$100,000 for counties having a population between 10,000 and 100,000; and \$150,000 for counties having a population in excess of 100,000. The additional capital requirements for a satellite office shall be one-half of that required for a branch, and it must be within fifteen (15) miles of the home or branch office. For an association to branch or establish a satellite office in a county with a population greater than the county where the home office of the association is located, the total capital must be increased to that required for the larger county plus the requirements set forth.

Authority: T.C.A. §§45-3-302 and 45-3-404. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.26 REMOTE SERVICE UNITS. Any association may establish one or more service units in any county in which it may establish a branch. Such association shall have been profitable for a minimum period of twelve (12) months prior to application and total investments in remote service units shall not exceed 25% of the association's net worth. The Commissioner must be notified in writing thirty (30) days prior to the opening of each remote service unit.

Authority: T.C.A. §45-3-302. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.27 CONVERSION RIGHTS. The Commissioner will approve no plan of conversion if there is a loss of property or voting rights.

Authority: T.C.A. §45-3-1105. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.28 REQUIREMENTS OF CHARTER OR BY-LAWS. The charter or by-laws of all associations shall contain the following provisions, in addition to the provisions required by the Tennessee General Corporation Act, compiled Chapters 1 through 14 of Title 48; unless waived by the Commissioner.

- (1) A statement that the annual meeting of stockholders shall be held within 90 days after the close of the fiscal year.
- (2) The following provisions relating to the Board of Directors:
 - (a) Board of Directors - The business of the association shall be managed and its corporate powers exercised by a Board of Directors. The board shall consist of not less than five (5) nor more than fifteen (15) adult natural persons who shall be elected by a plurality of the votes cast, either in person or by proxy, at the annual meeting of stockholders or members.
 - (b) Directors of Associations - Each director of an association shall, promptly after his election as such director and prior to commencement of his duties as a director, accept in writing such election.
 - (c) Form of Acceptance - The acceptance shall be in the following form:

We, the undersigned, having been duly elected as directors of _____ Association, do hereby accept the office of director, for a term as indicated opposite our signatures.

	Name of Director	Address	Term	Signature
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

- (d) Filing of Acceptances - The signed acceptances shall be filed with the Division promptly after execution.
- (e) Failure to Accept - If a director shall fail to accept election, in writing, as required by this Regulation within thirty (30) days after his election, it shall be presumptively assumed that such director has refused to accept such election and that a vacancy exists in the Board of Directors by reason of such refusal.
- (f) Qualification Required of Directors - Every director must, during his whole term of service, be a citizen of the United States, and at least a majority of the directors must be residents of this State during their Continuance in office. In order to qualify as a director of a capital stock association, a person must own individually, or jointly with his spouse or children, shares of stock of the association with a market value of five hundred dollars (\$500).

In order to qualify as a director of a mutual association, a person must own individually, or jointly with his spouse and children, a deposit account the withdrawal value of which is at least five hundred dollars (\$500) Directors of associations existing upon the effective date of this Act may complete their elected terms of office without complying with this provision, but all directors who are elected after such effective date shall be subject to this provision. Except with the written approval of the Commissioner, no person shall be eligible for election or shall serve as as director of an association if such person has been adjudicated a bankrupt or convicted of a criminal offense involving dishonesty or a breach of trust within the last ten (10) years. A director shall automatically cease to be a director when he is adjudicated a bankrupt or is convicted of a criminal offense involving dishonesty or a breach of trust. No action of the Board of Directors shall be invalidated through the participation of such director in such action.

(Rule 0180-12-.28, continued)

- (3) A requirement that no officer or director of an association shall hold this office or dual status as a director or officer of another financial institution, the principal office of which is located in the association's Standard Metropolitan Statistical Area.
- (4) A requirement that no director, officer, agent or employee shall have any interest, directly or indirectly, in the proceeds of a loan or investment or in the proceeds of a purchase or sale made by the association unless permitted by the rules and regulations of the insuring agency.
- (5) A requirement that no director, officer, agent or employee shall have any interest, direct or indirect, in the purchase at less than face value of any evidence of a deposit account or other indebtedness issued by the association.
- (6) A requirement that no association or director, officer, agent or employee thereof shall require, as a condition to the granting or renewal of any loan or the extension of any other service by the association, that the borrower or any other person undertake a contract of insurance or any other agreement or undertaking with respect to the furnishing of any other goods or services, with any specific person other than the association.
- (7) A requirement that all directors, officers, agents and employees of an association shall, before entering upon the performance of any of their duties, execute their individual bonds, payable to the association as an indemnity for any loss the association may sustain of money or other property by or through any fraud, dishonesty, false pretenses, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, hold-up, wrongful or unlawful abstraction, misapplication, misplacement, destruction or misappropriation, or any other dishonest or criminal act of omission by any such director, officer, agent or employee. Associations which employ collection agents, who for any reason are not covered by a bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collection of such agent. Such agents shall be required to make settlement with the association at least monthly.

The amounts and form of such bonds and sufficiency of the surety thereon, shall be approved by the Board of Directors. In lieu of individual bonds, each association shall provide and maintain a savings and loan blanket Fidelity Bond, Form No. 22, or any other form acceptable to this Department, covering each director, officer, agent or employee who has control over or access to cash or securities of the association. Each such bond shall be executed by a responsible surety company authorized to do business in this State and in the minimum amounts as required by the insuring agency. A true copy of every such indemnity bond shall be filed at all times with the Commissioner. Such bonds shall provide that a cancellation thereof either by, the surety or by the insured shall not become effective unless and until ten (10) days' notice in writing first shall have been given to the Commissioner.

Authority: T.C.A. §45-3-205. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.29 AFFIDAVIT OF COMPLIANCE. Each association shall file with the Commissioner an affidavit setting forth the extent to which it has complied with the provisions of these rules. Said affidavit shall set forth the areas in which the association is not in compliance, as well as the areas in which it is in compliance. For those areas where the association is not in compliance, the affidavit shall set forth details of how the association intends to achieve compliance, or contain an explanation of facts and conditions that would justify a waiver of those provisions by the Commissioner. All such affidavits shall be filed with the Commissioner within ninety (90) days after the effective date of these regulations.

(Rule 0180-12-.29, continued)

Authority: T.C.A. §45-3-801. *Administrative History:* Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.30 SEPARABILITY PROVISION; REPEALS. If any provision of these rules and regulations or the application thereof to any person or circumstances is held invalid, the remainder of the rules and regulations and the applicability of such provision to other persons or circumstances shall not be affected thereby. All prior rules relating to state-chartered savings and loan associations are hereby repealed.

Authority: T.C.A. §45-3-801. *Administrative History:* Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.

0180-12-.31 THROUGH 0180-12-.44 REPEALED.

Authority: T.C.A. §45-3-103. *Administrative History:* Original rule certified June 10, 1974. Repeal and new rule filed June 30, 1980; effective September 15, 1980. Transferred from the Department of Commerce and Insurance by Executive Order Number 38; effective February 11, 1983.