

## CHAPTER 51A

### SAVINGS ASSOCIATION ACT

51A.01	Citation.	51A.53	Powers of federal associations; approval.
51A.02	Definitions.	51A.55	Conformity.
51A.38	Loan plans.	51A.56	Act controlling.
51A.385	Terms and conditions of loans, contracts, and extensions of credit.	51A.57	Separability.
51A.51	Fees.		

#### 51A.01 CITATION.

Sections 51A.01 to 51A.58 may be cited as the "savings association act."

**History:** 1989 c 217 s 1

#### 51A.02 DEFINITIONS.

*[For text of subs 1 to 13, see M.S.1988]*

Subd. 14. **Conditional sale contract.** "Conditional sale contract" or "credit sale contract" means a contract evidencing a sale on credit.

*[For text of subs 15 to 56, see M.S.1988]*

**History:** 1989 c 217 s 2

#### 51A.38 LOAN PLANS.

*[For text of subs 1 and 2, see M.S.1988]*

Subd. 3. **Payments.** Payments on real estate loans shall be applied first to other charges, and the payment of interest on the unpaid balance of the loan, in the manner determined by the association, and the remainder on the reduction of principal. All loans may be prepaid in part or in full, at any time. An association may charge a borrower a prepayment fee on any loan that is not a consumer loan. Unless otherwise agreed in writing, any prepayment of principal on any loan 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, or, at the option of the association, the payments may be applied from time to time wholly or partially to offset payments which subsequently accrue under the loan contract.

*[For text of subs 4 to 8, see M.S.1988]*

**History:** 1989 c 217 s 3

#### 51A.385 TERMS AND CONDITIONS OF LOANS, CONTRACTS, AND EXTENSIONS OF CREDIT.

*[For text of subs 1 to 3, see M.S.1988]*

Subd. 4. **Additional authority.** Extensions of credit, and purchases of extensions of credit, authorized by sections 47.20, subdivision 1, 3, or 4a; 47.204; 47.21; 48.153; 48.185; 48.195; 59A.01 to 59A.15; 168.66 to 168.77; 334.01, subdivision 2; 334.011; and 334.012 may, but need not, be made pursuant to those sections in lieu of the authority set forth in subdivisions 1 to 3, and if so, are subject to the provisions of those sections, and not the provisions of this section, except this subdivision. An association may also charge an organization any rate of interest and any charges agreed to by the organization and may calculate and collect finance and other charges in any manner agreed to by that organization. Except for extensions of credit the association elects to make under section 334.01, subdivision 2; 334.011; or 334.012, the provisions of

chapter 334 do not apply to extensions of credit made pursuant to this section or the sections mentioned in this subdivision.

**Subd. 5. Additional charges.** (a) In addition to the finance charges permitted by this section, an association, or a person described in subdivision 2, to the extent not otherwise prohibited by law, may contract for and receive the following additional charges which may be included in the amount financed:

- (1) official fees and taxes;
- (2) charges for insurance as described in paragraph (b);
- (3) with respect to a loan or credit sale contract secured by real estate, including a real estate loan, the following "closing costs," if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this section:
  - (i) fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes;
  - (ii) fees for preparation of a deed, mortgage, settlement statement, or other documents, if not paid to the association;
  - (iii) escrows for future payments of taxes, including assessments for improvements, insurance, and water, sewer, and land rents;
  - (iv) fees for notarizing deeds and other documents; and
  - (v) appraisal and credit report fees;
- (4) a delinquency charge on any payment, including the minimum payment due in connection with the open-end credit, not paid in full on or before the tenth day after its due date in an amount not to exceed five percent of the amount of the payment;
- (5) for any returned check or returned automatic payment withdrawal request, an amount not in excess of the service charge limitation in section 332.50; and
- (6) charges for other benefits, including insurance, conferred on the borrower that are of a type that is not for credit.

(b) An additional charge may be made for insurance written in connection with the loan or credit sale contract, which may be included in the amount financed:

(1) with respect to insurance against loss of or damage to property, or against liability arising out of the ownership or use of property, if the association furnishes a clear, conspicuous, and specific statement in writing to the borrower setting forth the cost of the insurance if obtained from or through the association and stating that the borrower may choose the person through whom the insurance is to be obtained;

(2) with respect to credit insurance providing life, accident, health, or unemployment coverage, if the insurance coverage is not required by the association, and this fact is clearly and conspicuously disclosed in writing to the borrower, and the borrower gives specific, dated, and separately signed affirmative written indication of the borrower's desire to do so after written disclosure to the borrower of the cost of the insurance; and

(3) with respect to vendor's single interest insurance, but only (i) to the extent that the insurer has no right of subrogation against the borrower, and (ii) to the extent that the insurance does not duplicate the coverage of other insurance under which loss is payable to the association as its interest may appear, against loss of or damage to property for which a separate charge is made to the borrower pursuant to paragraph (b), clause (1), and (iii) if a clear, conspicuous, and specific statement in writing is furnished by the association to the borrower setting forth the cost of the insurance if obtained from or through the association and stating that the borrower may choose the person through whom the insurance is to be obtained.

(c) In addition to the finance charges and other additional charges permitted by this section, an association may contract for and receive the following additional charges in connection with open-end credit, which may be included in the amount financed or balance upon which the finance charge is computed:

(1) annual charges, not to exceed \$50 per annum, payable in advance, for the privilege of opening and maintaining open-end credit;

(2) charges for the use of an automated teller machine;

(3) charges for any monthly or other periodic payment period in which the borrower has exceeded or, except for the association's dishonor would have exceeded, the maximum approved credit limit, in an amount not in excess of the service charge permitted in section 332.50;

(4) charges for obtaining a cash advance in an amount not to exceed the service charge permitted in section 332.50; and

(5) charges for check and draft copies and for the replacement of lost or stolen credit cards.

**Subd. 6. Advances to perform covenants of borrower or purchaser.** (a) If the agreement with respect to a loan or credit sale contract contains covenants by the borrower or purchaser to perform certain duties pertaining to insuring or preserving collateral and the association pursuant to the agreement pays for performance of the duties on behalf of the borrower or purchaser, the association may add to the debt or contract balance the amounts so advanced. Before or within a reasonable time after advancing any sums, the association shall state to the borrower or purchaser in writing the amount of sums advanced or to be advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the borrower or purchaser performed by the association pertain to insurance, a brief description of the insurance paid for or to be paid for by the association including the type and amount of coverages. Further information need not be given.

(b) A finance charge equal to that specified in the loan agreement or credit sale contract may be made for sums advanced under paragraph (a).

**Subd. 7. Attorney's fees.** With respect to a loan or credit sale, the agreement may provide for payment by the borrower of the attorney's fees and court costs incurred in connection with collection or foreclosure. This subdivision is not a limitation on attorney's fees that may be charged to an organization.

**Subd. 8. Right to prepay.** The borrower or purchaser may prepay in full the unpaid balance of a consumer loan or credit sale contract, at any time without penalty.

**Subd. 9. Credit insurance.** (a) The sale of credit insurance is subject to the provisions of chapter 62B and the rules adopted under that chapter, but the term of the insurance may exceed 60 months if the loan or credit sale contract exceeds 60 months and the insurance will nevertheless be subject to chapter 62B and the rules adopted under that chapter. In case there are multiple consumers obligated under a transaction subject to this chapter, no policy or certificate or insurance providing credit life insurance may be procured by or through an association or person described in subdivision 2 upon more than two of the consumers, in which case they may be insured jointly.

(b) An association which provides credit insurance in relation to open-end credit may calculate the charge to the borrower in each billing cycle by applying the current premium rate to the balance in the manner permitted with respect to finance charges by the provisions on finance charge in this section.

(c) Upon prepayment in full of a consumer loan or credit sale contract by the proceeds of credit insurance, the consumer or the consumer's estate is entitled to a refund of any portion of a separate charge for insurance which by reason of prepayment is retained by the association or returned to it by the insurer, unless the charge was computed from time to time on the basis of the balances of the consumer's loan or credit sale contract.

(d) This section does not require an association to grant a refund to the consumer if all refunds due to the consumer under paragraph (c) amount to less than \$1 and, except as provided in paragraph (c), does not require the association to account to the consumer for any portion of a separate charge for insurance because:

(1) the insurance is terminated by performance of the insurer's obligation;

(2) the association pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them; or

(3) the association receives directly or indirectly under any policy of insurance a gain or advantage not prohibited by law.

(e) Except as provided in paragraph (d), the association shall promptly make or cause to be made an appropriate refund to the consumer with respect to any separate charge made to the consumer for insurance if:

(1) the insurance is not provided or is provided for a shorter term than for which the charge to the borrower for insurance was computed; or

(2) the insurance terminates before the end of the term for which it was written because of prepayment in full or otherwise.

(f) If an association requires insurance, upon notice to the borrower, the borrower has the option of providing the required insurance through an existing policy of insurance owned or controlled by the borrower, or through a policy to be obtained and paid for by the borrower, but the association for reasonable cause may decline the insurance provided by the borrower.

*[For text of subd 10, see M.S.1988]*

**Subd. 11. Consumer protections.** (a) Associations shall comply with the requirements of the Federal Truth in Lending Act, United States Code, title 15, section 1601 to 1693, in connection with a consumer loan or credit sale for a consumer purpose where the federal Truth in Lending Act is applicable.

(b) Associations shall comply with the following consumer protection provisions in connection with a consumer loan or credit sale for a consumer purpose: sections 325G.02 to 325G.05; 325G.06 to 325G.11; 325G.15 to 325G.22; and 325G.29 to 325G.36, and the Code of Federal Regulations, title 12, part 535, where those statutes or regulations are applicable.

(c) An assignment of a consumer's earnings by the consumer to an association as payment or as security for payment of a debt arising out of a consumer loan or consumer credit sale is unenforceable by the association and revocable by the consumer.

**Subd. 12. Loans and contracts other than consumer loans and contracts.** Loans and credit sale contracts other than consumer loans and consumer credit sale contracts are not subject to the provisions and limitations of subdivisions 8, 9, 10, paragraph (b), and 11.

**Subd. 13. Effect of violations on rights of parties.** (a) If an association has violated any provision of this section applying to collection of finance or other charges, the borrower or purchaser under a credit sale contract has a cause of action to recover damages and also a right in an action other than a class action, to recover from the association violating this section a penalty in an amount determined by the court not less than \$100 nor more than \$1,000. With respect to violations arising from other than open-end credit transactions, no action may be brought pursuant to this paragraph and no set-off or recoupment may be asserted pursuant to this paragraph, more than one year after the making of the debt.

(b) A borrower or purchaser under a credit sale contract is not obligated to pay a charge in excess of that allowed by this section and has a right of refund of any excess charge paid. A refund may not be made by reducing the borrower's or purchaser's obligation by the amount of the excess charge, unless the association has notified the borrower or purchaser that the borrower or purchaser may request a refund and the borrower or purchaser has not so requested within 30 days thereafter. If the borrower or purchaser has paid an amount in excess of the lawful obligation under the agreement, the borrower or purchaser may recover the excess amount from the association who made the excess charge or from an assignee of the association's rights who undertakes direct collection of payments from or enforcement of rights against borrowers or purchasers arising from the debt.

(c) If an association has contracted for or received a charge in excess of that allowed by this section, or if a borrower or purchaser under a credit sale contract is

entitled to a refund and a person liable to the borrower or purchaser refuses to make a refund within a reasonable time after demand, the borrower or purchaser may recover from the association or the person liable in an action other than a class action a penalty in an amount determined by the court not less than \$100 nor more than \$1,000. With respect to excess charges arising from other than open-end credit transactions, no action pursuant to this paragraph may be brought more than one year after the making of the debt. For purposes of this paragraph, a reasonable time is presumed to be 30 days.

(d) A violation of this section does not impair rights on a debt.

(e) An association is not liable for a penalty under paragraph (a) or (c) if it notifies the borrower or purchaser under a credit sale contract of a violation before the association receives from the borrower or purchaser written notice of the violation or the borrower or purchaser has brought an action under this section, and the association corrects the violation within 45 days after notifying the borrower or purchaser. If the violation consists of a prohibited agreement, giving the borrower or purchaser a corrected copy of the writing containing the violation is sufficient notification and correction. If the violation consists of an excess charge, correction must be made by an adjustment or refund.

(f) An association may not be held liable in an action brought under this section for a violation of this section if the association shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error.

(g) In an action in which it is found that an association has violated this section, the court shall award to the borrower or the purchaser under a credit sale contract the costs of the action and to the borrower's or purchaser's attorneys their reasonable fees.

**History:** 1989 c 217 s 4-12

## 51A.51 FEES.

*[For text of subds 1 to 3a, see M.S.1988]*

**Subd. 4. Supervision and examination fee.** At the time of filing its annual report each association shall pay to the commissioner as a fee for supervision and examination an annual assessment as determined by the commissioner pursuant to the provisions of section 46.131. Such assessment shall be in lieu of all other license fees and charges of any kind whatsoever to any other state department or office, municipality, county, or other political subdivision; provided that the commissioner may assess against any such association the actual and necessary per diem expenses of and incidental to any additional examinations, or to supervision, or to any appraisal or special audit made pursuant to an order of the commissioner acting under authority of sections 51A.01 to 51A.58.

*[For text of subd 5, see M.S.1988]*

**History:** 1989 c 217 s 13

## 51A.53 POWERS OF FEDERAL ASSOCIATIONS; APPROVAL.

Subject to the approval of the commissioner, any savings and loan association organized under sections 51A.01 to 51A.58 is vested with all powers conferred upon a federal association organized under the laws and regulations of the United States or its agencies, as amended, as fully and completely as if the powers were specifically enumerated and described herein, provided that the same are not specifically prohibited by state law.

**History:** 1989 c 217 s 14

## 51A.55 CONFORMITY.

**Subdivision 1. Thrift and home financing organizations.** All persons accepting

moneys from the public and engaged in home financing, whether or not incorporated, and every corporation heretofore incorporated under the statutes of this state which has for its purpose the promotion of thrift and the financing of homes, except those regulated under other Minnesota statutes or federal laws, by whatever name known, shall at the time sections 51A.01 to 51A.58 become effective be subject to the provisions of sections 51A.01 to 51A.58 and shall be deemed to exist hereunder.

**Subd. 2. Existing corporations.** The name, rights, powers, privileges, and immunities of every such corporation heretofore incorporated in this state shall be governed, controlled, construed, extended, limited, and determined by the provisions of sections 51A.01 to 51A.58 to the same extent and effect as if such corporation had been incorporated pursuant hereto, and the articles of association, certificate of incorporation, or charter, however entitled, bylaws and constitution, or other rules of every such corporation heretofore made or existing are hereby modified, altered, and amended to conform to the provisions of sections 51A.01 to 51A.58, with or without the issuance or approval by the commissioner of conformed copies of such documents, and the same are declared void to the extent that the same are inconsistent with the provisions of sections 51A.01 to 51A.58; except that the obligations of any such existing corporation, whether between such corporation and its members, or any of them, or any other person or persons, or any valid contract between the members of any such corporation, or between such corporation and any other person or persons, existing on July 1, 1969, shall not be in any way impaired by the provisions of sections 51A.01 to 51A.58, and, with such exceptions, every such corporation shall possess the rights, powers, privileges, and immunities and shall be subject to the duties, liabilities, disabilities, and restrictions conferred and imposed by sections 51A.01 to 51A.58, notwithstanding anything to the contrary in its certificate of incorporation, bylaws, constitution, or rules.

*[For text of subd 3, see M.S.1988]*

**History:** 1989 c 217 s 15,16

#### **51A.56 ACT CONTROLLING.**

Insofar as the provisions of sections 51A.01 to 51A.58 are inconsistent with the provisions of any other law affecting associations, the provisions of sections 51A.01 to 51A.58 shall control.

**History:** 1989 c 217 s 17

#### **51A.57 SEPARABILITY.**

If any provision, clause, or phrase of sections 51A.01 to 51A.58 or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of sections 51A.01 to 51A.58 which can be given effect without the invalid provisions or application, and to this end the provisions of sections 51A.01 to 51A.58 are declared to be separable.

**History:** 1989 c 217 s 18