

17-5402. Reserve stock shares. Any association in existence upon the effective date of this act and having permanent stock at that date may retain such permanent stock and from time to time may issue additional shares of such stock according to the provisions of its bylaws and upon which a full dividend, or a definite dividend, may be paid, which dividend shall in no case exceed the percent of profit per annum then being paid or credited by said association on the class or series of stock of such association bearing the highest dividend rate of said association. The balance of profits, if any, and the principal paid on such stock shall not be paid to the holders of the same until all lawful claims of every other class of stock in its series, as expressed in the certificate of such other classes, and all other liabilities of such corporation shall have been fully liquidated and paid. Permanent stock in existing associations may be converted to reserve stock shares under rules to be made by the board. Any incorporators of a new association incorporated hereafter under the provisions of this act may provide for reserve stock shares in said new association, which reserve stock shares shall be subscribed and paid for in cash as part of the original subscription in amounts not less than those provided for the minimum subscriptions to capital under the provisions of this act. Reserve stock shares may participate in dividends as provided in the bylaws. Reserve stock shares shall be considered a secondary reserve out of which losses shall be paid after all other available reserves have been exhausted, and when losses have thus been charged against said secondary reserve, the participating value of said shares shall be reduced pro rata, and shall represent a redemption of said shares, and shall in every way be construed the same as repurchase payments to other members on shares or share accounts. In case of voluntary or involuntary liquidation or dissolution or winding up of affairs the balance of profits, if any, and reserves and the participation value of said reserve stock shares shall be paid to the holders of said reserve stock shares after all outstanding liabilities have been fully liquidated, paid or satisfied and after the full participation value of all other shares has been paid or credited to said shareholders. If at any time all of the reserves plus the undivided profits less the amount to the credit of the reserve stock shares and less all indicated losses of such association shall exceed five percent of the total liabilities, the amount to the credit of said reserve stock shares may be paid or credited to the holders of said shares by order of the board of directors upon surrender of their reserve stock share certificates for cancellation and approval by a majority of the reserve stock: Provided, (a) That such amounts shall be paid or credited from the reserve stock shares proportionately to the participating value of said reserve stock shares; (b) that such payment to holders of reserve stock shares must first be approved in writing by the commissioner; and (c) that such payment shall not be made if after such payment the total book value of the association's real estate owned, judgments, loans in foreclosures, and real estate sale contracts on which there is an unpaid balance due in excess of eighty percent of the original sale price, shall be more than twice the remaining general reserves, undivided profits and reserve stock shares.

History: L. 1943, ch. 133, § 60; L. 1945, ch. 159, § 1; June 28.