

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **SB 1338**

Weninger Floor Amendment

As passed the Committee on Banking and Financial Services, SB 1338 reduces the nonrefundable application fee for a savings and loan association permit to \$5,000.

The floor amendment dated 3-19-15, at 8:08am adds the following:

1. Expands the definition of *insurance corporation*, in relation to savings and loan associations, to include any other equivalent deposit insurer approved by the superintendent.
2. Grants savings and loan associations, whose accounts are insured by an *insurance corporation*, the rights, powers, privileges, and certain entitlements as federal savings and loan associations doing business in this state.
3. Makes conforming changes.

Amendment explanation prepared by Paul Benny

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3/18/2015

WENINGER FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1338

(Reference to Senate engrossed bill)

1 Page 4, after line 6, insert:

2 "Sec. 2. Section 6-401, Arizona Revised Statutes, is amended to read:

3 6-401. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Account" means withdrawable capital deposited with or invested in
6 an association in accordance with any plan authorized by the provisions of
7 this chapter unless such term is otherwise designated or qualified.

8 2. "Aggregate withdrawal value" means the sum of all payments made on
9 all accounts of the association, all dividends and bonuses credited or
10 allocated to such accounts and all dividends credited to "divided profits"
11 for subsequent crediting to accounts upon maturity, less all withdrawals,
12 retirements and other proper deductions from accounts and all unpaid charges
13 on the accounts.

14 3. "Association" means every association to which this chapter applies
15 as defined in the section concerning scope of chapter.

16 4. "Community" means a city, incorporated town, unincorporated town,
17 community or village.

18 5. "Continuing association" means the association which continues to
19 exist after a merger of associations has been effected.

20 6. "Federal association" means a savings and loan association or
21 savings association operating under the laws and regulations of the United
22 States.

23 7. "Impaired" or "impairment", with respect to capital, means a
24 condition in which the value of the association's assets is less than the
25 aggregate amount of the association's liabilities to creditors, the aggregate
26 value of its accounts and the aggregate par value of its guaranty capital.

1 8. "Improved real estate" means real estate which is, or which from
2 the proceeds of the loan will become, a home, combination of home and
3 business property or other improved real estate.

4 9. "Insurance corporation" means the federal deposit insurance
5 corporation or such other instrumentality of, or corporation chartered by,
6 the United States as may be established for the purpose of insuring the
7 accounts of savings and loan associations **OR ANY OTHER EQUIVALENT DEPOSIT**
8 **INSURER APPROVED BY THE SUPERINTENDENT.**

9 10. "Insured association" means an association, the accounts of which
10 are insured wholly or in part by an insurance corporation.

11 11. "Investment" means to put funds to use in order to secure profits.

12 12. "Mail" or "mailed" means, with respect to a writing or notice,
13 deposit in a United States post-office mailing facility in this state with
14 postage prepaid and correctly addressed to the proper person at his address
15 stated on the association's records or otherwise agreed upon or if no address
16 has been so established then to the last known address.

17 13. "Merger" includes consolidation.

18 14. "Merging association" means an association which plans or effects a
19 merger with one or more other associations in accordance with the provisions
20 of this chapter concerning merger.

21 15. "Other improved real estate" means real estate other than a home or
22 combination home and business property which, because of its state of
23 improvement, or improvement from the proceeds of the loan, will produce
24 sufficient income to maintain the property and retire the loan in accordance
25 with the terms of the loan.

26 16. "Participating interests" means the purchase or acquisition of an
27 interest in an existing permanent mortgage loan.

28 17. "Prior act" means any statute of this state which, ~~prior to the~~
29 ~~effective date of this chapter~~ **BEFORE JUNE 25, 1960**, has governed the
30 formation or operation of associations of the type described in the section
31 of this chapter concerning scope of the chapter.

1 the rights, powers and privileges and shall be entitled to the same
2 exemptions and immunities as federal savings and loan associations doing
3 business in this state unless prohibited by this chapter.

4 Sec. 4. Section 6-412, Arizona Revised Statutes, is amended to read:

5 6-412. Completion of organization

6 A. When the board of directors has organized as provided in this
7 chapter and the report of such organization has been filed with the
8 superintendent, he shall make a thorough examination into the affairs of the
9 proposed association, and if he approves the articles of incorporation and is
10 satisfied that all the requirements of this chapter have been complied with,
11 and that no intervening circumstance has occurred to change the
12 superintendent's findings made pursuant to this chapter, upon payment into
13 the superintendent's office of the fees for such examination, he shall issue
14 a certificate authorizing the filing of the articles of incorporation with
15 the corporation commission and the taking of the other steps required by
16 title 10, to complete the formation of a corporation. Upon the appointment of
17 a statutory agent and the issuance of a certificate of incorporation by the
18 corporation commission and the payment into escrow with a responsible
19 corporate escrow agent approved by the superintendent of the amount of the
20 initial capital required by this chapter, the superintendent shall issue a
21 permit conditioned upon the association securing within twelve months from
22 the date of such permit insurance of its insurable accounts by ~~the federal~~
23 ~~deposit insurance corporation, or any successor instrumentality, pursuant to~~
24 ~~the laws of the United States~~ AN INSURANCE CORPORATION and the rules and
25 regulations of such corporation.

26 B. Unless such insurance is secured within such period the permit
27 shall be deemed revoked unless the superintendent, upon good cause shown,
28 shall extend the time for securing such insurance for a single fixed period
29 which shall not exceed six months. The association shall not operate as a
30 savings and loan association under the laws of this state or transact any
31 other business than that necessary to secure such insurance until it has
32 secured such insurance. If such insurance is not secured within the time

1 provided by this chapter or as extended by the superintendent, all amounts
2 collected as subscriptions to the required capital shall be returned to the
3 subscribers without reduction.

4 ~~C. All existing associations doing business under this chapter shall,
5 within one year from the effective date of this chapter, submit to the
6 superintendent evidence of their having insurance of accounts with an
7 instrumentality of the United States; provided, however, that if an existing
8 association has filed a bona fide application for such insurance after the
9 effective date of this chapter and diligently pursues its application, and
10 additional time is required for the granting of such insurance, the
11 superintendent may extend said one year period for not to exceed an
12 additional six months.~~

13 Sec. 5. Section 6-423, Arizona Revised Statutes, is amended to read:

14 6-423. Accounts

15 A. An association may maintain all types of deposit accounts and
16 prescribe those terms and conditions relating to the accounts as are
17 permissible for the association to maintain the insurance of its deposits by
18 ~~the federal deposit~~ AN insurance corporation.

19 B. Accounts are:

20 1. Withdrawable and subject to enforced retirement as provided in this
21 article. This chapter does not prevent the withdrawal of funds from an
22 association by negotiable or nonnegotiable order.

23 2. Entitled to dividends as provided in this article.

24 3. Nonassessable for either debts or losses of the association.

25 4. Issued on such plan or plans of payment and in such series or
26 classes as the bylaws may provide, which plan or plans of payment may
27 include:

28 (a) Regular installment plan with agreed weekly or monthly payments,
29 with dividends credited to or in behalf of the account until the ultimate
30 value agreed upon in the subscription is reached.

1 (b) Full paid plan with one single payment of one hundred dollars per
2 unit and dividends payable in cash unless by agreement credited to the
3 account.

4 (c) Prepaid plan with one single payment in such amount per unit as is
5 set forth in the bylaws and dividends credited to such account until the
6 ultimate value of one hundred dollars per unit is reached.

7 (d) Optional plan with payments in such amount or amounts and at such
8 times as the holder may elect and dividends credited to such account unless
9 by agreement payable in cash.

10 (e) Any other plan of payment which the superintendent may approve as
11 conforming to sound savings and loan practice.

12 Sec. 6. Section 6-465, Arizona Revised Statutes, is amended to read:
13 6-465. Merger of associations or corporations

14 A. An association operating under this chapter may merge into or with
15 one or more associations, whether operating under this chapter or otherwise,
16 or into or with any other corporation, except a corporation or association
17 operating an insurance business, other than title insurance, pursuant to
18 title 20. The board of directors of each merging association or corporation,
19 by resolution adopted by a majority vote of all members of such board, must
20 approve the plan of merger, which shall set forth:

21 1. The name of each merging association or corporation, and the name
22 of the continuing association or corporation and the location of its
23 principal office.

24 2. The amount of capital, reserves, and undivided profits of the
25 continuing association or corporation, and the kinds of shares and other
26 types of capital to be issued thereby.

27 3. The articles of incorporation of the continuing association or
28 corporation.

29 4. A detailed pro forma financial statement of the assets and
30 liabilities of the continuing association or corporation.

1 5. The manner and basis of converting the capital of each merging
2 association or corporation into capital of the continuing association or
3 corporation.

4 6. The other terms and conditions of the merger and the method of
5 effectuating the same.

6 7. Such other provisions with respect to the merger as appear
7 necessary or desirable, or as the superintendent may reasonably require to
8 enable him to discharge his duties with respect to such merger.

9 B. The plan of merger adopted shall be submitted to the superintendent
10 for approval, together with a certified copy of the authorizing resolution of
11 each board of directors, showing approval by a majority of the entire board
12 of each merging association operating under this chapter and evidence of
13 proper action by the board of any other merging association or
14 corporation. The superintendent may make or cause to be made an examination
15 of the affairs of each of the merging associations or corporations. The
16 superintendent may approve the plan of merger if, after appropriate inquiry
17 into the affairs of each of the merging associations or corporations, he
18 finds that:

19 1. If the resulting association or corporation is an association
20 operating under this chapter, the continuing association meets the
21 requirements of this chapter as to the organization of a new association
22 ~~including insurance of accounts as required by section 6 412, subsection C.~~

23 2. The plan provides an adequate capital structure.

24 3. The plan is fair to all persons affected.

25 4. The plan meets the approval of the insurance corporation, if such
26 approval is required.

27 C. If the superintendent disapproves the plan of merger, he shall
28 state his objections in writing and give the merging associations or
29 corporations an opportunity to amend the plan of merger to eliminate such
30 objections.

31 D. Except as provided by subsection F of this section, after approval
32 by the superintendent, the plan of merger shall be submitted to a vote of the

1 members of each merging association operating under this chapter and to the
2 members or stockholders of any other merging association or corporation to
3 the extent required by the laws and rules applicable to the other merging
4 association or corporation. Each meeting of the members of an association
5 operating under this chapter shall be called and held in accordance with
6 section 6-415. The plan shall be approved by the members of an association
7 operating under this chapter if the plan receives, in the affirmative, a
8 majority of the total number of votes which all members of the association
9 are entitled to cast or such greater percentage of the votes as the articles
10 of incorporation of the association require. Each meeting of any other
11 association or corporation shall be called and held, and the required
12 majority must be obtained, in accordance with the law and regulations
13 applicable to such association or corporation.

14 E. A report of proceedings at the meeting of the members or
15 stockholders of each association or corporation, certified by the president
16 or a vice-president and attested by the secretary thereof, and setting forth
17 the notice given and time of mailing thereof, the vote on the plan of merger,
18 and the total number of votes which all members or stockholders of the
19 association or corporation were entitled to cast thereon, shall be filed in
20 duplicate with the superintendent, except that if no member or stockholder
21 vote is required by an association or corporation, the association or
22 corporation shall file a report to that effect, in duplicate, certified by
23 the president or vice-president and attested by the secretary of the
24 association or corporation. Any report filed under this subsection shall be
25 accompanied by the plan of merger, duly executed by each merging association
26 or corporation. The superintendent thereupon shall issue to the continuing
27 association or corporation a certificate of merger, setting forth the name of
28 each merging association or corporation and the name of the continuing
29 association or corporation, and the articles of incorporation of the
30 continuing association or corporation.

1 F. Unless required by its articles of incorporation, a vote of the
2 members of the continuing association or corporation is not necessary to
3 authorize a merger if either:

4 1. No shares of common stock are to be issued by the continuing
5 association or corporation and no shares, securities or obligations
6 convertible into such stock are to be issued or delivered under the plan of
7 merger.

8 2. The authorized but unissued shares or the treasury shares of common
9 stock of the continuing association or corporation to be issued or delivered
10 under the plan of merger plus those initially issuable on conversion of any
11 other shares, securities and obligations to be issued or delivered under the
12 plan do not exceed twenty per cent of the shares of common stock of the
13 association or corporation outstanding immediately before the effective date
14 of the merger. If a plan of merger is adopted pursuant to this subsection, a
15 statement that the plan has been so adopted and that, as of the date of the
16 statement, the outstanding shares of the continuing association or
17 corporation were such as to render this subsection applicable shall be
18 certified by the president or vice-president and attested by the secretary
19 and shall be attached to the plan of merger. The plan so approved and the
20 statement described in this subsection shall be filed in duplicate with the
21 superintendent.

22 G. The merger shall become effective upon the filing with the
23 corporation commission of the certificate of merger in the same manner as
24 articles of incorporation, and the recording of a copy thereof certified by
25 the corporation commission in each county in this state in which the business
26 office of any of the merging associations or corporations was located, and in
27 the county in which the business office of the continuing association or
28 corporation is located, if any.

29 H. The expenses of any examination made by or at the direction of the
30 superintendent in connection with a proposed merger shall be paid by the
31 merging association or corporation in accordance with the fees fixed for
32 special examination by section 6-125.

1 I. If the continuing association or corporation is to be governed by
2 the laws of any jurisdiction other than this state, it shall comply with the
3 applicable provisions of the laws under which it is organized and shall
4 comply with the laws of this state with respect to foreign corporations if it
5 is to transact business in this state."
6 Amend title to conform

JEFF WENINGER

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3/19/15
8:08 AM
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