



**THE ATTORNEY GENERAL
OF TEXAS**

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AUSTIN, TEXAS 78711

November 5, 1969

Honorable W. Sale Lewis
Commissioner,
Texas Savings and Loan Department
P. O. Box 1089
Austin, Texas

Opinion No. M-506

Re: Whether state chartered
savings and loan associa-
tions may raise capital
through deposit-type ac-
counts.

Dear Commissioner Lewis:

In your recent request for an opinion from this office you ask whether a state chartered savings and loan association may lawfully accept "deposit-type" accounts, which you describe as a type of savings deposit at a guaranteed rate of interest. No dividends will be declared but the depositor does become a voting member of the institution entitled to a pass book or certificate under a debtor-creditor relationship. You point out that Section 6.20 of Article 852a, Vernon's Civil Statutes, enacted in 1969 by the 61st Legislature, provides as follows:

"Notwithstanding any provision of this Act to the contrary, an association may raise capital in the manner and form and pay dividends, earnings or interest thereon in the manner which the association could, if it were a federal association as defined in Section 1.03(9) of this Act."

At the time of the passage of Section 6.20, federal associations were authorized to use the deposit-type account. 12 U. S. C. A., Section 1464(b)(1) provides in part as follows:

"An association may raise capital in the form of such savings deposits, shares, or other accounts, for fixed, minimum, or indefinite periods of time (all of which are referred to in this section as sav-

ings accounts and all of which shall have the same priority upon liquidation) as are authorized by its charter or by regulations of the Board, and may issue such passbooks, time certificates of deposit, or other evidence of savings accounts as are so authorized. Holders of savings accounts and obligors of an association shall, to such extent as may be provided by its charter or by regulations of the Board, be members of the association, and shall have such voting rights and such other rights as are thereby provided. "

This statute has been further implemented by Section 545.1-2, et seq., Rules and Regulations for Federal Savings and Loan Systems.

In addition to Section 6.20 of the Texas Savings and Loan Act, as quoted above, the Building and Loan Section of the Finance Commission has promulgated rules governing both savings accounts and deposit accounts. Rules and Regulations for Savings and Loan Associations, Ch. 9, as amended.

It is our conclusion that a state-chartered association may raise capital through such deposit-type accounts as you contemplate. Our opinion is based on the provisions of the Texas Savings and Loan Act and the clear declaration of the legislative will in Section 6.20 as quoted above. Section 4.01 of the Texas Savings and Loan Act provides:

"Every association incorporated pursuant to or operating under the provisions of this Act shall have all the powers enumerated, authorized and permitted by this Act and such other rights, privileges and powers as may be incidental to or reasonably necessary for the accomplishment of the objects and purposes of the association. "

Section 6.01 provides:

"There shall be no limit on the number and value of savings accounts an association may accept unless limits are fixed by its board of directors. "

Section 6.03 provides, in part:

"Each holder of a savings account shall execute a savings contract setting forth any special terms and provisions applicable to such account and the conditions upon which withdrawals may be made not inconsistent with the provisions of this Act . . ."
(Emphasis added.)

Section 6.04 provides:

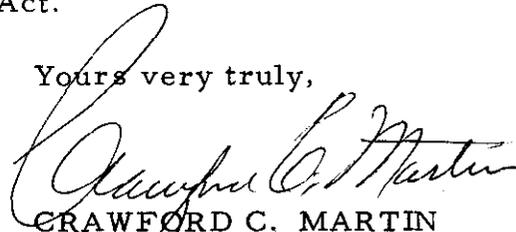
"As evidence of each such savings account the associations shall issue to the holder of such account either an account book or certificate."

When the above quoted statutes are considered as "in pari materia" (See 53 Tex. Jur. 2d 278, Statutes, Sec. 185), it becomes clear that Texas savings and loan associations are authorized to raise capital through such deposit-type accounts as hereinabove described by you. Our opinion, however, is limited and confined to this premise.

SUMMARY

Deposit-type accounts may be accepted by state chartered savings and loan associations under the authority of Sections 4.01, 6.03, 6.04 and 6.20, Texas Savings and Loan Act.

Yours very truly,



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