

# TEXAS FARM CREDIT SERVICES

## CAPITALIZATION BYLAWS

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## **ARTICLE VII - CAPITALIZATION OF ASSOCIATION**

### **Section 7.01. General Authorization of Classes, Par or Face Value, Voting Rights, Adoption, Form, Ownership**

#### Section 7.01.1

The Association is authorized to have outstanding Class A Common Stock, Class B Common Stock, Class P Common Stock, Class C Preferred Stock and participation certificates. Each share of stock and unit of participation certificates shall have a par or face value of \$5.00. Fractional shares of stock or units of participation certificates shall not be issued. Notwithstanding any provision of this article, no class of stock shall be issued, transferred, retired, have dividends declared or paid upon it, or otherwise be dealt by the Association or any other party except in accordance with applicable law and regulations.

The Association is authorized under Section 7.40 to issue and have outstanding Preferred Stock in the amounts and subject to the conditions and limitations set forth in Section 7.40. Preferred Stock issuances must be approved by a majority of the shares voting of each class of equities adversely affected by the preference, voting as a class, whether or not such classes are otherwise authorized to vote.

#### Section 7.01.2

Class B Common Stock will have full voting rights, while Class A Common Stock, Class P Common Stock, Class C Preferred Stock, and participation certificates will have no voting rights except as provided in this section. Except as provided in this section, these capitalization bylaws and any amendments thereto shall not take effect until approved by a majority of voting shareholders in accordance with Section 4.3A(c)(2) of the Farm Credit Act of 1971, as amended, (the Act) voting in person or by written proxy at a duly authorized meeting. Preferred stock must be authorized by a majority of the shares of each class of equities affected by the preference, voting as a class, whether or not such classes are otherwise authorized to vote. Cumulative voting for the election of directors or for any other purpose shall not be permitted.

#### Section 7.01.3

Evidence of ownership of capital stock and participation certificates shall be by book entry except as may otherwise be required by regulation of the FCA. The Association shall be its own transfer agent in all matters relating to its capital stock and participation certificates.

#### Section 7.02 Capitalization Plan

The Board of Directors shall adopt a consolidated plan of capitalization for the Association, PCA and FLCA in compliance with these bylaws and applicable regulations.

#### Section 7.10 Stock Forms, Rights and Privileges

##### Section 7.10.1 Class A Common Stock – Nonvoting

##### Section 7.10.11 Holder

Class A Common Stock will only be issued for the conversion of Class B Common Stock or participation certificates as provided for in Section 7.10.27 and 7.10.47, respectively.

##### Section 7.10.12 Issuance

Class A Common Stock may be issued in unlimited amounts.

Section 7.10.13 Retirement

Class A Common Stock may be retired at the sole discretion of the Association's Board in accordance with the policy and procedure of the Association's Board provided that the Association's Board determines that the Association, FLCA and PCA will meet or exceed minimum capital adequacy requirements established by regulations of the FCA, or such higher capitalization objectives that have been established by the Board, after the retirement, taking into account the payment of all declared dividends or payment of allocated equities to holders.

At its option the Association may retire all or a part of the shares of Class A Common Stock against the outstanding indebtedness of a borrower, in the event of default by the borrower, provided the Association meets or exceeds minimum capital adequacy requirements as established by FCA.

Class A Common Stock shall be retired at book value not to exceed par value.

Section 7.10.14 Dividends

Class A Common Stock shall have an equal right with other classes of common stock or participation certificates to any common dividends declared by the Board.

Section 7.10.15 Patronage Distributions

Ownership of Class A Common Stock will not entitle holders to any patronage distributions declared by the Association's Board of Directors.

Section 7.10.16 Transfer

Class A Common Stock may be transferred to any individual or legal entity.

Section 7.10.17 Conversion

Class A Common Stock may be converted to either Class B Common Stock or participation certificates provided that the holder is eligible to hold such stock or participation certificates. Class A Common Stock that has been transferred may be converted only if the Association meets minimum capital adequacy standards established by FCA at the time of conversion.

Section 7.10.18 Lien

The Association, FLCA and PCA, as applicable, shall have a first lien on all outstanding Class A Common Stock owned by a borrower as additional collateral for any indebtedness of the borrower to the Association, FLCA and/or PCA.

Section 7.10.2 Class B Common Stock – Voting

Section 7.10.21 Holder

Class B Common Stock may only be issued to borrowers who are farmers, ranchers, or producers or harvesters of aquatic products.

Section 7.10.22 Issuance Requirement

Class B stock is required to be purchased by every eligible holder as a condition for obtaining a loan or loans and will be maintained in an amount determined by the Board in its sole discretion from time to time, which amount shall not be greater than 5 percent of each loan balance and shall not be less than 2 percent of the holder's aggregate loan balances outstanding or \$1,000, whichever is less. The number of shares authorized to be issued and outstanding will be unlimited. Outstanding stock in excess of this requirement may be used to satisfy the stock purchase requirement for new disbursements or new loans to the holder. Class B Common Stock must be purchased by every eligible holder as a condition for obtaining a lease and will be maintained in an amount determined by the Board in its sole discretion from time to time, which amount shall not be greater than 5 percent of the lease and shall not be less than one share. Class B Common Stock need not be purchased by any borrower whose loan, at the time the loan is made, is designated for sale into a secondary market, and is

in fact sold within the 180-day period beginning on the date of designation. If such loan is not sold into a secondary market by the expiration of the 180-day period, the borrower shall purchase Class B Common Stock in the amount set forth above for loans not sold into a secondary market. In cases where (1) stock has been issued on a loan made before February 10, 1996, the effective date of the Farm Credit System Reform Act of 1996, or (2) stock is issued on a loan made on or after February 10, 1996 that is designated for sale into a secondary market but is not sold during the 180-day period beginning on the date of designation, and where such loan is subsequently sold into a secondary market, the stock shall be retired provided that minimum regulatory capital adequacy standards are met. The retention by the Association of a subordinated participation interest in any loan sold into a secondary market under title VIII of the Act shall not affect the application of this bylaw to such loan.

#### Section 7.10.23 Retirement

Except as provided in section 7.10.22, the amount of the Class B Common Stock that exceeds the amount required in Section 7.10.22 may be retired at the sole discretion of the Board in accordance with the policy and procedure of the Association's Board provided the Association's Board determines that the Association, FLCA and PCA will meet or exceed minimum capital adequacy requirements established by regulations of the FCA, or such higher capitalization objectives that have been established by the Board after the retirement taking into account the payment of all declared dividends and/or payment of allocated equities to holders.

Class B Common Stock shall be retired at book value not to exceed par value.

At its option and upon proper notice to the borrower, the Association may retire all or part of the shares of Class B Common Stock outstanding against the outstanding indebtedness of a borrower in the event of default by the borrower.

If the Association forgives and writes off under Section 4.14A of the Act any of the principal outstanding on a loan to a borrower who is a member of the Association, the Association shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock. In any event, if the borrower has a continuing loan obligation with the Association, the borrower shall be entitled to retain at least one share of Class B Common Stock to maintain the borrower's membership and voting interest in the Association.

#### Section 7.10.24 Dividends

Class B Common Stock shall have an equal right with other classes of common stock or participation certificates to any common dividends declared by the Board.

#### Section 7.10.25 Patronage Distributions

Ownership of Class B Common Stock will entitle holders to any patronage distributions declared by the Association's Board of Directors as provided in Section 8.40.

#### Section 7.10.26 Transfer

Class B Common Stock may be transferred to other persons or entities eligible to hold it under Section 7.10.21. Such transferred stock may be used to satisfy purchase requirements under Section 7.10.22 only if the Association, PCA and FLCA meet minimum capital adequacy requirements as established by FCA or such higher amount as established by the Board.

#### Section 7.10.27 Conversion

Class B Common Stock shall be converted to Class A Common Stock within two years after the holder ceases to be a borrower. Class B Common Stock may be converted to Class A Common Stock upon member's request. Conversion will be limited to only that amount of stock which is eligible for retirement as enumerated in Section 7.10.23.

Section 7.10.28 Lien

The Association, FLCA and PCA, as applicable, shall have a first lien on all outstanding Class B Common Stock owned by a borrower as additional collateral for any indebtedness of the borrower to the Association, PCA and FLCA.

Section 7.10.3 Class C Preferred Stock - Nonvoting

Section 7.10.31 Holder

Class C Preferred Stock will be issued to any individual or legal entity.

Section 7.10.32 Amount Issuance

A maximum of 10 million shares of Class C Preferred Stock are authorized to be issued and outstanding. Class C Preferred Stock will be purchased in minimum increments in accordance with policy established by the Board. Class C Preferred Stock may be issued for allocated surplus distributions, dividend payments, and patronage refunds.

Section 7.10.33 Retirement

Class C Preferred Stock may be retired at the sole discretion of the association board on a monthly basis upon determination by the Association board that the Association, PCA and FLCA meet or exceed minimum capital adequacy requirements established by regulations of the FCA, or such higher capitalization objectives that have been established by the board, after retirement, taking into account the payment of all declared dividends and/or payment of allocated equities to holders.

Holders of Class C Preferred Stock must list their stock for retirement on the prescribed stock retirement form before the stock will be considered for retirement.

Stock retirements shall be made payable to the holder of record.

Class C Preferred Stock will be retired in minimum increments in accordance with policy established by the board.

The Association board of directors will determine the amounts of stock eligible for retirement each month. If only a partial amount of stock that has been listed for retirement is eligible for retirement, stock will be retired in the sequence that retirement requests were received.

The Association, at its option, may retire all Class C Preferred Stock against the outstanding indebtedness of a borrower, in the event of default by the borrower, provided the association meets or exceeds minimum capital adequacy requirements.

Class C Preferred Stock shall be retired at book value not to exceed par value.

Class C Preferred Stock shall be subordinate to Preferred Stock as to dividends and distributions upon liquidation, dissolution and winding up.

Section 7.10.34 Dividends

Dividends shall be paid only at the discretion of the board of directors, provided the association will meet minimum capital adequacy standards established under Section 4.3 of the Act after such payment. Dividends shall be noncumulative and nonparticipating. Dividends, if declared by the board, will be determined on a per share basis, for the holder of record as established by the board. The date of record established by the board shall be prior to, but no after the day the dividend is declared. The minimum dividend payable on Class C preferred stock before a dividend is paid on common stock shall be \$.20 per share annually.

Section 7.10.35 Patronage Distributions

Ownership of this stock will not entitle holders to any patronage distributions declared by the association board of directors.

Section 7.10.36 Transfer

Class C Preferred Stock may be transferred to any person or legal entity

Section 7.10.37 Conversion

This stock may not be converted into any other class of stock or participation certificates.

Section 7.10.4 Participation Certificates – Nonvoting

Section 7.10.41 Holder

Participation certificates will be issued as a condition of borrowing from the Association, FLCA or PCA. Participation certificates may be issued to borrowers or applicants who are:

Rural residents, including persons eligible to hold Class B Common Stock under Section 7.10.21, to capitalize rural housing loans.

Persons or organizations furnishing farm-related services.

Other persons or organizations who are eligible to borrow from or participate with the Association but who are not eligible to hold voting stock.

Participation certificates may be issued to any person who is not a shareholder but who is eligible to borrow from the Association for the purpose of qualifying such person for technical assistance, financially related services and leasing services offered by the Association, FLCA or PCA.

Participation certificates may be issued at the discretion of the Association's Board to persons who sell participation interests in loans or leases to the Association, FLCA or PCA.

Participation Certificates authorized under Section 7.10.41 (1) and (2) may be issued in unlimited amounts. Up to 10 million participation certificates may be issued under Section 7.10.41(3).

Section 7.10.42 Issuance

Participation certificates are required to be purchased by every eligible borrower not eligible to hold voting stock as a condition for obtaining a loan and will be maintained in an amount determined by the Board in its sole discretion from time to time, which amount shall not exceed 5 percent of each loan balance and shall not be less than 2 percent of the holder's aggregate outstanding loan balances, or \$1,000, whichever is less. Outstanding participation certificates in excess of this requirement may be used to satisfy the stock purchase requirement for new disbursements or new loans to the holders. The number of certificates authorized to be issued and outstanding will be unlimited (except as provided in Section 7.10.41). Participation certificates must be purchased by every eligible holder not eligible to hold voting stock as a condition for obtaining a lease and will be maintained in an amount determined by the Board in its sole discretion from time to time, which amount shall not exceed 5 percent of the total outstanding amount of the lease and shall not be less than one unit. Participation certificates need not be purchased by any borrower whose loan, at the time the loan is made, is designated for sale into a secondary market, and is in fact sold within the 180-day period beginning on the date of designation. If such loan is not sold into a secondary market by the expiration of the 180-day period, the borrower shall purchase participation certificates in the amount set forth above for loans not sold into a secondary market. In cases where (1) participation certificates have been issued on a loan made before February 10, 1996, the effective date of the Farm Credit System Reform Act of 1996, or (2) participation certificates are issued on a loan made on or after February 10, 1996 that is designated for sale into a secondary



market but is not sold during the 180-day period beginning on the date of designation, and where such loan is subsequently sold into a secondary market, the participation certificates shall be retired provided that minimum regulatory capital adequacy standards are met. The retention by the Association of a subordinated participation interest in any loan sold into a secondary market under title VIII of the Act shall not affect the application of this bylaw to such loan.

#### Section 7.10.43 Retirement

Except as provided in section 7.10.42, the amount of participation certificates that exceeds the amount required under Section 7.10.42 may be retired at the sole discretion of the Association's Board in accordance with the policy and procedure established by the Board, provided that the Association, PCA and FLCA will meet or exceed minimum capital adequacy requirements established by regulations of the FCA or such higher capitalization objectives that have been established by the Board after the retirement, taking into account the payment of all declared dividends or payment of allocated equities to holders.

Participation certificates shall be retired at book value not to exceed par value.

The Association, at its option, and upon proper notice to the borrower, may retire all or part of the participation certificates against the outstanding indebtedness of a borrower in the event of default by the borrower.

#### Section 7.10.44 Dividends

Participation certificates shall have an equal right with other classes of common stock to any common dividends declared by the Board.

#### Section 7.10.45 Patronage Distributions

Ownership of participation certificates will entitle the holder to share in any patronage distributions declared by the Association's Board of Directors as provided in Section 8.40.

#### Section 7.10.46 Transfer

Participation certificates may be transferred to other persons or entities eligible to hold them under Section 7.10.41. Transferred participation certificates may be used to satisfy the purchase requirements under Section 7.10.42 only if the Association, PCA and FLCA meet minimum capital adequacy requirements as established by FCA and such higher amount as established by the Board.

#### Section 7.10.47 Conversion

Participation certificates may be converted to Class A Common Stock upon member's request. Conversion will be limited to only that amount of participation certificates which is eligible for retirement as enumerated in Section 7.10.43.

#### Section 7.10.48 Lien

The Association, FLCA and PCA, as applicable, shall have a first lien on all outstanding participation certificates owned by a borrower as additional collateral for any indebtedness of the borrower to the Association, PCA and FLCA.

#### Section 7.10.5 Class P Common Stock - Nonvoting

##### Section 7.10.51 Holder

This stock may be issued to borrowers eligible to hold Class B Common Stock or participation certificates. The issuance of this stock for the purposes of accepting the distribution of Association earnings shall be a condition to obtaining a loan.

##### Section 7.10.52 Amount; Issuance

Class P Common Stock may be issued in unlimited amounts. This stock shall be issued in series with the stock issued in each fiscal year constituting a separate series.

Class P Common Stock may be issued as provided in these bylaws only for allocated surplus distributions (Section 8.20), stock dividends (Section 8.30), and patronage distributions (Section 8.40).

Section 7.10.53 Retirement

This stock may be retired at the sole discretion of the Board in accordance with the policy and procedure of the Association's Board provided the Association's Board determines that the Association, PCA and FLCA will meet or exceed minimum capital adequacy requirements established by regulations of the FCA or such higher capitalization objectives that have been established by the Board after the retirement, taking into account the payment of all declared dividends and/or payment of allocated equities to holders.

Section 7.10.54 Dividends

This stock shall be eligible for any dividends declared by the Association's Board of Directors.

Section 7.10.55 Patronage Distributions

Ownership of Class P Common Stock will not entitle holders to any patronage distributions declared by the Association's Board of Directors.

Section 7.10.56 Transfer

This stock may be transferred to any person or legal entity

Section 7.10.57 Conversion

This stock may not be converted.

Section 7.10.58 Lien

The Association, FLCA and PCA, as applicable, shall have a first lien on all outstanding Class P Common Stock owned by a borrower as additional collateral for any indebtedness of the borrower to the Association, PCA and FLCA.

Section 7.10.6 Reserved

Section 7.20 Impairment

Section 7.20.10

Any losses which result in any impairment of the Association's capital stock shall be borne ratably, first by each share or unit of all classes of common stock and participation certificates, and then by each share of Class C Preferred Stock, and then by each share of Preferred Stock in accordance with the terms of the Preferred Stock.

Section 7.20.11

Impaired stock and participation certificates shall be restored in the reverse of the sequence in Section 7.20.10 until each share of stock and unit of participation certificates has a book value equal to the par or face value, respectively.

Section 7.25 Redemption Restriction

No common stock, participation certificates or Class C Preferred Stock shall be retired or otherwise acquired for consideration by the Association unless previously accumulated and unpaid Preferred Stock dividends have been paid in full or, in the case of non-cumulative Preferred Stock, the full dividends for the immediately preceding dividend period have been paid in full, and the Association has redeemed the full number of outstanding shares for each outstanding series of term Preferred Stock required to be redeemed prior to that date.

### Section 7.30 Distribution on Liquidation

In the event of the liquidation or dissolution of the Association, any assets of the Association remaining after payment or retirement of all liabilities shall be distributed to the holders of stock and participation certificates in the following order of priority:

First, ratably to the holders of Preferred Stock, in proportion to the number of shares of such Preferred Stock then issued and outstanding and consistent with the terms of such Preferred Stock until an amount equal to the liquidation preference provided for in the terms of such Preferred Stock established pursuant to this Article VII of all such shares has been distributed to such holders (except that, if the shares of Preferred Stock of different classes have different priorities upon liquidation as contemplated by Section 740, distribution shall be first made to the more senior series in accordance with their ranking up to the amount equal to their respective liquidation preferences before distributions are made to the more subordinated series).

Second, to the holders pro-rata of Class C Preferred Stock then outstanding until an amount equal to the aggregate par value of such stock has been distributed to such holder;

Third, to the holders of common stock and participation certificates, pro rata in proportion to the number of shares of units of stock or participation certificates then outstanding until an amount equal to the aggregate par value or unit value of all shares of such stock and participation certificates issued and outstanding has been distributed to such holders;

Fourth, to the holders of allocated surplus evidenced by Qualified Written Notices of Allocation as defined in Section 8.40.61 of these bylaws pro rata, on the basis of the oldest allocations first, until the total amount of such allocated surplus has been distributed;

Fifth, to the holders of allocated surplus evidenced by Nonqualified Written Notices of Allocation as defined in Section 8.40.61 of these bylaws pro rata, on the basis of the oldest allocations first, until the total amount of such allocated surplus has been distributed;

Sixth, any remaining assets of the Association after such distribution shall be distributed to members, both past and present, in proportion to which the aggregate patronage of each such member bears to the total patronage of all such parties insofar as practicable, unless otherwise provided by law.

### Section 7.40. Rights and Preferences of Preferred Stock.

#### 7.40.10. Authorization.

The Association is authorized to issue preferred stock ("Preferred Stock") with an aggregate par value of up to \$ 200 million from time to time in one or more series. The par value of each share of Preferred Stock may vary by series. Preferred Stock may be issued for consideration to holders of Association common stock, and to any person or entity that qualifies as a "qualified" institutional buyer" (as such term is defined in Rule 144A under the Securities Act of 1933) or, an institutional "accredited investor" (as such term is defined in Rule 501(a)(1), (2), (3), (7), (8) or (9) under the Securities Act), or other such investor approved by the FCA at the time of issuance thereof. Preferred Stock shall not be issued as patronage distributions. Each series of Preferred Stock shall be subject to any transfer restrictions regarding minimum purchase amount and types of sophisticated purchasers imposed by the FCA at the time of issuance thereof. Preferred Stock may not be converted into any class of stock other than another series of Preferred Stock. Preferred Stock may be in certificate or book-entry form at the Board's option. In either case, ownership shall be confirmed and transfers registered by the Association or by a registrar or a transfer agent retained by the Association.

#### 7.40.20. Rights of Series.

Preferred Stock may be issued from time to time by resolution of the Board in one or more series, each series being so designated as to distinguish the shares thereof from the shares of all other series and classes. Subject

to the limitations set forth in these Bylaws, all or any of the series of Preferred Stock and the relative rights and preferences between series may be fixed and determined by the Board in a certificate of designations adopted by the Board. The rights and preferences of each series of Preferred Stock, when established as set forth herein, shall be deemed to be part of this Article VII.

7.40.30. Dividends.

Preferred Stock shall bear either cumulative or non-cumulative dividends, fixed rate or floating rate or a combination thereof, payable in arrears, when, as and if declared by the Board out of legally available funds. Preferred Stock shall be entitled to a preference both as to dividends (and other distributions including patronage distributions) and upon liquidation, dissolution and winding up over all of the Association's common stock, participation certificates, Class C Preferred Stock and allocated surplus (collectively, "Junior Stock").

7.40.40. Redemption.

Preferred Stock is redeemable as specified in the terms of the particular class or series of Preferred Stock. The terms of a series or class of Preferred Stock may allow redemptions of the shares of such class or series, in part or whole: (a) upon a specified maturity date; (b) at the option of the Association, on or after the expiration of a specified "no-call" feature (or at any time if there is no such feature); or (c) at the discretion of the Association, on or after a "Regulatory Event" as specified in the terms of the Preferred Stock, or any combination of the foregoing. Any redemption at the option of the Association shall be at the sole discretion of the Board and subject to any required approval of the FCA or any other governmental or regulatory body applicable to the Association. Each redemption of Preferred Stock shall be at par value, not to exceed book value, plus accrued and unpaid dividends to the redemption date for cumulative Preferred Stock, and at par value, not to exceed book value, plus (to the extent provided in the terms of the Preferred Stock) declared and unpaid dividends for prior dividend periods and accrued and unpaid dividends (whether or not declared) for the then current dividend period to the redemption date for non-cumulative Preferred Stock. Any redemption of Preferred Stock is subject to Regulations and shall not occur unless the Association is in compliance with the minimum capital adequacy standards in the Regulations (including subpart H of part 615 and part 628). Redemption of Preferred Stock may require prior approval by the FCA.

7.40.50. Restriction on Distributions.

No Junior Stock shall be retired or otherwise acquired for consideration by the Association unless previously accumulated and unpaid Preferred Stock dividends have been paid in full or, in the case of non-cumulative Preferred Stock, the full dividends for the immediately preceding dividend period have been paid in full, and the Association has redeemed the full number of outstanding shares for each outstanding series of term Preferred Stock required to be redeemed prior to that date.

## **ARTICLE VIII - EARNINGS, SURPLUS, DIVIDENDS, PATRONAGE DISTRIBUTIONS**

Section 8.01 Application of Earnings or Losses

Section 8.01.1

At the end of each fiscal year, the Association shall apply its earnings for such fiscal year as follows and in the order listed:

To cover operating expenses including additions to loan valuation reserves, in accordance with generally accepted accounting principles and as provided by law;

To restore the amount of any impairment of all capital stock and participation certificates as provided in Section 7.20 of the bylaws;

To restore the amount of any impairment of allocated surplus, in the reverse order of such impairment;

To create and maintain an unallocated surplus account as provided in Section 8.10 of these bylaws;

To pay dividends on capital stock of the Association if authorized; and

To make patronage distributions if authorized pursuant to Section 8.40 of these bylaws.

#### Section 8.01.2

In the event of a net loss for any fiscal year, after applying earnings for such fiscal year as provided in Section 8.01.1 above, such loss shall be absorbed by: first, charges to the unallocated surplus account; second, impairment of the allocated surplus account to the extent evidenced by “Nonqualified Written Notices of Allocations”, in the reverse order of issuance, third, impairment of the allocated surplus account to the extent evidenced by “Qualified Written Notices of Allocation,” in the reverse order of issuance; and fourth, impairment of capital stock as provided in Section 7.20.10.

#### Section 8.10 Surplus Accounts

The Association shall create and maintain an unallocated surplus account and may maintain an allocated surplus account. The minimum aggregate amount of these two accounts shall be determined by the Association’s Board, provided such amount equals or exceeds the minimum aggregate amount prescribed by FCA. At the end of any fiscal year that the surplus accounts otherwise would be less than the minimum amount prescribed by the Board, the Association shall apply earnings for the year to the unallocated surplus account in such amount as the Association’s Board may determine.

#### Section 8.20 Allocated Surplus Account

##### Section 8.20.1

The Association may create and maintain an allocated surplus account consisting of earnings held therein and allocated to borrowers on a patronage basis pursuant to Section 8.40 of these bylaws. Allocated surplus may be issued as either “qualified written notices of allocation” or “non-qualified written notices of allocation,” or both, as those terms are defined under Internal Revenue Code (“Code”) Section 1388:

All allocations in the form of qualified written notices of allocation shall be issued in annual series and shall be identified by the year of issuance. Each such series shall be retired fully or on a pro rata basis, only at the discretion of the Board, in order of issuance by years as funds are available.

All allocations in the form of non-qualified written notices of allocation shall be issued in annual series and identified by the year of issuance. Each annual series may be subdivided between two or more classes. Each such series, or class thereof, shall be retired in the discretion of the Board.

In the event of a net loss for any fiscal year, such allocated surplus account shall be subject to impairment in the reverse order of issuance as specified in Section 8.01.2.

##### Section 8.20.2

The Association, PCA and FLCA, as applicable, shall have a first lien on all surplus account allocations owned by any borrower and all distributions thereof as additional collateral for his indebtedness to the Association, PCA and FLCA.

### Section 8.20.3

When the debt of a borrower is in default or is in the process of final liquidation by payment or otherwise, the Association may order any and all surplus account allocations owned by such borrower to be applied on the indebtedness.

### Section 8.20.4

Whenever all of the capital stock and participation certificates of the Association owned by a member are retired or otherwise disposed of, any surplus account allocations owned by such member may also be retired at the sole discretion of the Board only in accordance with Sections 8.20.5 and 8.50 of these bylaws.

### Section 8.20.5

Allocated surplus may be distributed, oldest allocations first or otherwise as approved by the Association's Board, in Class C Preferred Stock or Class P Common Stock of the Association and/or in cash. The cash proceeds may be applied against the indebtedness of the borrower to the Association. In no event shall such distributions reduce the surplus account below the minimum amount prescribed by the Association's Board or reduce capital adequacy ratios after the payment below the minimum established by regulations of the FCA or such higher capitalization objectives that have been established by the Board. Distributions of less than the full amount of "qualified allocations" issued as of the same date shall be on a pro rata basis. Distributions of less than the full amount of "nonqualified allocations" issued as of the same date shall be on a pro rata basis. Any part of a distribution in Class C Preferred Stock or Class P Common Stock to one owner that is less than \$5.00 may be held by the Association and cumulated with subsequent partial distributions to the owner until the partial distributions equal one whole share of Class C Preferred Stock or Class P Common Stock.

No allocated surplus shall be retired or otherwise acquired for consideration by the Association unless previously accumulated and unpaid Preferred Stock dividends have been paid in full or, in the case of non-cumulative Preferred Stock, the full dividends for the immediately preceding dividend period have been paid in full, and the Association has redeemed the full number of outstanding shares for each outstanding series of term Preferred Stock required to be redeemed prior to that date.

## Section 8.30 Dividends

### Section 8.30.1

When approved by the board of directors in accordance with Regulations, dividends may be paid on the capital stock and participation certificates of the Association, as the board of directors may determine by resolution, but not in excess of an annual rate of eight percent of par value. Such dividends may be paid on Class C Preferred Stock alone, or on all classes of stock and participation certificates. The rate of dividend paid on Class C Preferred Stock for any fiscal year may not be less than the rate of dividend paid on all other common stock or participation certificates for such year and, similarly, the rate of dividends on Class B Common Stock may not be less than the rate paid on participation certificates. No dividends on common stock and participation certificates shall be paid in any year with respect to which the Association has passed a resolution authorizing the distribution of patronage under Section 8.40.

No dividends on common stock or participation certificates will be declared, paid or set aside for payment unless previously accumulated and unpaid Preferred Stock dividends have been paid in full or, in the case of non-cumulative Preferred Stock, the full dividends for the immediately preceding dividend period have been declared and paid in full, and the Association has redeemed the full number of outstanding shares for each outstanding series of term Preferred Stock required to be redeemed prior to that date.

### Section 8.30.2

Dividends on capital stock and participation certificates may be paid in cash, Class C Preferred Stock, Class P Common Stock or partly in cash and partly in such stock. Any part of such dividends to one owner payable in

stock that is less than \$5.00 may be distributed in cash or held by the association and cumulated with subsequent dividends, until the retained dividends equal \$5.00 so that the dividends may be distributed as one whole share of Class C Preferred Stock or Class P Common Stock.

Section 8.30.3.

Dividends on Preferred Stock shall be as set forth in Section 7.40.

Section 8.40 Patronage Distributions

Section 8.40.1

Subject to the provisions of the Act and Regulations, prior to the beginning of any fiscal year, the Association's Board may, by adoption of a resolution, obligate the Association to distribute as patronage dividends to members, on the basis of quantity or value of business done with the Association, PCA and FLCA, all or any portion of the available consolidated net earnings of the Association, PCA and FLCA for such fiscal year or for that and subsequent fiscal years. For this purpose, the available consolidated net earnings shall be defined as the net income of the Association, FLCA and PCA attributable to business done with or for Members. In adopting said resolution the Association's Board may adopt a de minimis earnings exception which limits the patronage distribution if certain net earnings requirements are not met for such fiscal year or for that and subsequent fiscal years. Such resolution shall constitute a binding, irrevocable, legal obligation to distribute patronage in accordance with the provisions hereof. Notwithstanding the foregoing and in accordance with the provisions hereof, the Association shall be obligated to distribute as patronage dividends to members the available consolidated net earnings of the Association, FLCA and PCA for the fiscal year beginning the effective date of these bylaws.

Any dividend that is declared by the Board on Preferred Stock or other capital stock and distributed by the Association shall not reduce Patronage-Sourced Net Earnings for the year of the distribution. Such dividends are in addition to amounts otherwise payable to Members which are derived from business done with or for Members during the fiscal year.

Section 8.40.2

All patronage distributions shall be in the proportion that the amount of interest and other income earned by the Association, PCA and FLCA on their loans and other transactions with each member bears to the total interest and other income earned by the Association on all such loans and transactions during the fiscal year, except that another proportionate patronage basis may be used as determined by the Association's Board. A member who pays interest or otherwise contributes to the Association's consolidated net income, as applicable, during the distribution period for which the patronage distribution is made shall be entitled to receive a pro-rata share of the patronage distribution regardless of whether the member continues to be a shareholder or borrower of the Association, FLCA or PCA on the date the declaration of the patronage distribution is made. The Association's Board may establish earnings pools for the payment of patronage provided such earnings pools are established in a rational and equitable basis that will ensure that each patron of the Association, PCA and FLCA receives its fair share of the Association's consolidated earnings and bears its fair share of the expenses. The Board retains discretion not to pay patronage with respect to one or more such pools provided all members are treated fairly and equitably.

Section 8.40.3

Net earnings of any fiscal year shall be available for patronage distribution after first making the applications as required in Section 801.1, including (i) the setting aside of a portion of the net earnings in the unallocated surplus account, as deemed prudent for sound capital accumulation; and (ii) making provision for payment of the Association's federal income or related taxes for the fiscal year; provided, that, these amounts shall first

come from net earnings, if any, attributable to sources other than patronage transactions with or for members and any non-patronage-sourced net earnings not so applied shall be set aside in the unallocated surplus account.

#### Section 8.40.4

Patronage distributions may be in either qualified or nonqualified form and may be in cash, Class C Preferred Stock or Class P Common Stock of the Association, allocations of earnings retained in an allocated surplus account or any one or more of such forms of distributions, except that, with respect to qualified patronage distributions, at least the minimum amount required to qualify the refund as a deductible patronage distribution for federal income tax purposes to any borrower for any fiscal year shall always be in cash. Cash distributions may not exceed the minimum amount required to qualify the refund as a deductible patronage distribution for federal income tax purposes if the capital of the Association, PCA and FLCA through the payment of patronage would, after such action, fail to meet the minimum capital adequacy requirements established by regulations of the FCA or such higher capitalization objectives that have been established by the Board. Any part of a patronage distribution in Class C Preferred Stock or Class P Common Stock to one borrower that is not a multiple of \$5.00 may be distributed in cash or held by the Association for the member and included in a subsequent distribution.

#### Section 8.40.5

Any part of the patronage distributions to a member, except the minimum amount required to be paid in cash to qualify the distribution as a deductible patronage distribution for federal income tax purposes, may at the discretion of the Association, be applied on the member's indebtedness to the Association, FLCA or PCA.

#### Section 8.40.51

When the debt of a borrower is in default and has been placed in nonaccrual status, the member shall not be entitled to receive, and the Association shall not be obligated to distribute, patronage distribution to such member while such debt is placed in nonaccrual status, unless the borrower contributed income to the Association on a cash basis, notwithstanding the nonaccrual status of the debt.

#### Section 8.40.6

Each person who hereafter applies for and is accepted to membership in this Association and each member of this Association on the effective date of this bylaw who continues as a member after such date, and each person who thereafter applies for and is issued stock or participation certificates of this Association shall, by such act alone, consent that the amount of any distributions with respect to the member's patronage occurring after the date these bylaws were adopted, which are made in or evidenced by "Qualified Written Notices of Allocation", including patronage allocations of surplus account and patronage refunds paid in Class C Preferred Stock or Class P Common Stock of the Association, and which are received by the member from the Association, will be taken into account (as income) by the member at their stated dollar amounts in the manner provided in 26 U.S.C. 1385(a) in the taxable year in which such written notices of allocation are received by the member. Such members also consent by such act alone, to take into account (as income) in the same manner, the amount of any distributions with respect to patronage if the member receives written notice that such amount has been applied on the member's indebtedness to the Association, FLCA or PCA. The terms "member" and "membership" as used in this bylaw shall have the meaning set forth in Article I of these bylaws.

#### Section 8.40.61

The Association may obtain the written consent of each member that the amount of any distributions with respect to the member's patronage, which are made in or evidenced by "Qualified Written Notices of Allocation" (as defined in 26 U.S.C. 1388), including patronage allocations of surplus account, patronage refunds paid in stock or distributions with respect to patronage that has been applied to the member's indebtedness to the Association, FLCA or PCA and for which the member has received written notice, will be taken into account (as income) by the member at their stated dollar amounts in the manner provided for in 26 U.S.C. 1385(a) in the taxable year in which such written notices of allocation are received by the member. The form of consent shall be prescribed by the Association's Board, except that it shall be continuing in effect until



revoked by the member, and may be included as part of the loan application or other appropriate form signed by borrowers. Consent may also be obtained by use of a qualified check in the manner provided for in 26 U.S.C. 1388.

Section 8.40.62

Any written notice of allocation made with the member's consent pursuant to the above sections shall be a "Qualified Written Notice of Allocation," and any patronage distribution made in accordance with such written notice shall be a "Qualified" patronage distribution. Any written notice that is not made with the member's consent pursuant to this section shall be a "Nonqualified Written Notice of Allocation," and any patronage distribution made pursuant to such a nonqualified notice shall be a "nonqualified" patronage distribution.

Section 8.40.7

Where the Association arranges for the provision of credit and/or related services to its members through FLCA and/or PCA, and such members avail themselves of the arrangements made and maintained by the Association by borrowing or acquiring related services from FLCA and/or PCA, all net earnings or loss attributable to such provision of credit and/or related services shall be treated as net earnings or loss of the Association from business done with its members and all business done with FLCA and PCA shall be treated as business done with the Association.

Section 8.40.8

No patronage distributions or redemption of allocated surplus will be declared, paid or set aside for payment unless previously accumulated and unpaid Preferred Stock dividends have been paid in full or, in the case of non-cumulative Preferred Stock, the full dividends for the immediately preceding dividend period have been declared and paid in full, and the Association has redeemed the full number of outstanding shares for each outstanding series of term Preferred Stock that are required to be redeemed prior to that date.

Section 8.50 Retirement of Patronage Accounts

If at any time, the Board of Directors shall determine that the financial condition of the Association, PCA and FLCA will not be impaired thereby, the patronage allocated to members' accounts may be retired in full or part. The Board, in its sole discretion, shall have the power to retire the patronage allocated to any member in such events as death or bankruptcy, or to settle a dispute, on such terms and conditions as may be deemed appropriate by the Board, or in any instance in which the interests of the Association and its shareholders are deemed to be furthered thereby, and funds are determined by the Board to be available for such purpose. Any allocated patronage retired under this section may, at the Board's discretion, be retired at present value based upon the current revolvment cycle, if any. There is no express or implied right granted to a member to have allocated patronage retired upon request.

Section 8.60 Amendment to Capitalization Bylaws

Amendments to the capitalization bylaws in Articles VII and VIII (including provisions permitting cumulative voting, if any), and the capitalization bylaws of FLCA and PCA, other than technical amendments not affecting substantive rights, shall not be effective without the approval of a majority of the Association's shareholders voting, in person or by proxy, at a duly authorized shareholders' meeting. Any amendment authorizing the issuance of preferred stock must be authorized by a majority of the shares voting of each class of equities adversely affected by the preference, voting as a class, whether or not such classes are otherwise authorized to vote.