

16-16-1007 Limitations on distributions.

- (1) A limited cooperative association may not make a distribution if, after the distribution:
 - (a) the association would not be able to pay its debts as they become due in the ordinary course of the association's activities; or
 - (b) the association's assets would be less than the sum of its total liabilities.
- (2) A limited cooperative association may base a determination that a distribution is not prohibited under Subsection (1) on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.
- (3) Except as otherwise provided in Subsection (4), the effect of a distribution allowed under Subsection (2) is measured:
 - (a) in the case of distribution by purchase, redemption, or other acquisition of financial rights in the limited cooperative association, as of the date money or other property is transferred or debt is incurred by the association; and
 - (b) in all other cases, as of the date:
 - (i) the distribution is authorized, if the payment occurs not later than 120 days after that date; or
 - (ii) the payment is made, if payment occurs more than 120 days after the distribution is authorized.
- (4) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.
- (5) For purposes of this section, "distribution" does not include reasonable amounts paid to a member in the ordinary course of business as payment or compensation for commodities, goods, past or present services, or reasonable payments made in the ordinary course of business under a bona fide retirement or other benefits program.

Enacted by Chapter 363, 2008 General Session