§ 243. Surplus fund. 1. Every savings bank shall create a fund to be known as a surplus fund. Such fund may be created or increased by contributions made by the incorporators as provided in this article or by transfers from undivided profits or by transfers from earnings as required in this article. Such fund up to ten per centum of the amount due depositors shall not be available for any purpose other than that specified in subdivision two of this section, except with the prior written approval of the superintendent, provided that such fund shall be available without such approval for the purpose of paying expenses or absorbing losses only in the event such savings bank has no undivided profits against which such expenses or losses may be charged.

2. Contributions of incorporators or trustees to the surplus fund may be repaid pro rata in such amounts as will not reduce the surplus fund below five per centum of the amount due depositors, provided the written approval of the superintendent shall be required before any repayments may be made that will reduce the surplus fund below the amount created at the time of incorporation of the savings bank. In case of the liquidation of the savings bank before the contributions to the surplus fund have been repaid, any portion of such contributions not needed for the payment of the expenses of liquidation and the payment of depositors and creditors in full may be repaid to the contributors pro rata.

3. Contributions heretofore made by incorporators or trustees of any savings bank to pay its expenses or to maintain its solvency, under an agreement with the superintendent that such contributions may be returned whenever such return will not affect the solvency of such savings bank or render it unsafe to continue business, may be returned in accordance with the provisions of such agreement.

4. The aggregate of the guaranty fund and expense fund of every savings bank at the time this act takes effect shall constitute the surplus fund at that date and shall thereafter be subject to all the provisions of this article relating to surplus fund.