§ 387. Credits to surplus account and undivided profits; dividends to shareholders. 1. When the net profits of any savings and loan association have been determined at the close of an accounting period, if its net worth does not equal ten per centum of its capital, such net profits shall be credited to its surplus account in such amount as may be determined by the superintendent of financial services until such net worth equals ten per centum of its capital. For purposes of this article, the term "net worth" shall mean the excess of assets at book value, less allocated reserves, over known liabilities. The balance of such net profits, together with any amounts remaining from similar balances for previous accounting periods, shall constitute the undivided profits of such savings and loan association at the close of such period. The directors, in addition to the transfers to the surplus account required by this section, may transfer additional amounts to surplus account from undivided profits or continue to carry as undivided profits such sum or sums as they may deem wise. Amounts heretofore credited to a reserve for bad debts pursuant to chapter three hundred nine of the laws of nineteen hundred fifty-two shall be transferred to surplus account.

2. The undivided profits of a savings and loan association at the close of an accounting period shall be available for dividends. The directors may declare such dividends pursuant to the provisions of this paragraph or for any annual, semiannual, quarterly or monthly period closing on the last day of a calendar month or as provided in paragraph (bb) of subdivision four of section three hundred seventy-eight of this chapter. No association shall declare, credit or pay any dividend while its capital is impaired, or at any time except by a vote of the board of directors.

Notwithstanding the foregoing, in the event the gross income, undivided profits, surplus account or net worth of a savings and loan association shall be, or shall be deemed by the superintendent to be, increased as a result of any loan, purchase of assets or guaranty by, or other transaction with, any insuror of the accounts of such savings and loan association, including a transaction subject to subdivision two of section three hundred eighty-two-b of this article, the amount of any

such increase in the gross income, undivided profits, surplus account or net worth of such savings and loans association shall, with the prior written approval of the superintendent, be available for dividends.

4. Dividends shall be apportioned upon the dues and dividends credited to members, provided, however, that, except in the case of special savings shares, no dividend shall be required to be computed and paid upon any dues credited to a member except from the first day of the month immediately following the date of receipt of such dues, and provided further, that no dividend shall be required to be apportioned on shares having a book value of less than fifty dollars or on savings shares issued for special purposes which by their terms are to be withdrawn by the shareholder within one year from the date of their issuance. Any such association may compute dividends upon dues credited to a member from the date of actual receipt of such dues. The by-laws of any such association may provide a schedule of varying rates of dividends for different classes of shares and different types of shares within any class.

5. No savings and loan association shall declare any dividends upon the accumulations on any share for a longer period than that during which such accumulations have been held; provided, however, that dues paid upon shares not later than the tenth day of any month, may have dividends declared thereon from the first day of the month in which such payment was made; and withdrawals of shares during the last three business days of any dividend period or, in the event that one of such last three business days is a Saturday, deposits withdrawn upon one of the last four business days of any dividend period may receive dividends apportioned for the full period.