

Act No. 422
Public Acts of 1996
Approved by the Governor
November 21, 1996
Filed with the Secretary of State
November 22, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Reps. Randall and Middaugh

ENROLLED HOUSE BILL No. 6022

AN ACT to amend section 401 of Act No. 354 of the Public Acts of 1996, entitled "An act to codify the laws relating to savings banks; to provide for incorporation, regulation, supervision, and internal administration of savings banks; to prescribe the rights, powers, and immunities of savings banks; to prescribe the powers and duties of certain state agencies and officials; to provide for remedies; and to prescribe penalties," being section 487.3401 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 401 of Act No. 354 of the Public Acts of 1996, being section 487.3401 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 401. (1) Except as otherwise provided by this act, a savings bank may engage in the business of banking and exercise all powers incidental to the business of banking or which further or facilitate the purposes of a savings bank. A savings bank has all the powers conferred by this act and granted by rule, order, or declaratory ruling of the commissioner, including, but not limited to, all of the following powers:

(a) To have a corporate seal, that may be altered, and to use the seal, or a facsimile of it, by having it impressed, affixed, or reproduced in any manner.

(b) To have succession in perpetuity or for a limited period of time, as fixed by its articles or until its affairs are finally wound up by liquidation, forfeiture, or dissolution as provided by this act.

(c) To make contracts.

(d) To sue and be sued, complain, and defend in its corporate name as fully as a natural person.

(e) To elect or appoint directors who shall appoint from their members a president who shall perform duties as may be designated by the board, and who shall serve as the chairperson of the board, unless the board designates another director to be chairperson in lieu of the president. The board may appoint officers as the board considers necessary, who need not be members of the board, define their duties, dismiss at pleasure, and appoint other officers to fill vacancies.

(f) To make, alter, amend, and repeal bylaws not inconsistent with its articles or with law for the administration and regulation of the affairs of the savings bank.

(g) To have and exercise the powers and means appropriate to effect the purpose for which the savings bank is incorporated.

(h) To make investments permitted by this act and those investments permitted by order or declaratory ruling of the commissioner.

(i) To make contributions and donations for the public welfare or for religious, charitable, scientific, or educational purposes, and, in connection with the contributions and donations, establish and operate charitable trusts.

(j) To purchase, take, lease as lessee, or otherwise acquire and to own, hold, and use, to sell, lease as lessor, pledge, grant a security interest in, convey, or otherwise dispose of personal property in connection with the exercise of a power granted by this act.

(k) To act as agent of the United States or of an instrumentality or agency of the United States, or of a state, for the sale or issue of bonds, notes, or other obligations of the United States, or of a state and to act as a fiscal agent of the United States, a state, or as a treasury tax and loan depository and perform all reasonable duties in those capacities as may be prescribed or required by regulation of the secretary of the treasury of the United States, or of the treasurer of a state, and to take other action as may be necessary or proper to enable the savings bank to act under this subdivision.

(l) To become a member of the federal reserve system, to hold shares of stock in a federal reserve bank, to take all actions incident to its membership, and to exercise all powers, not inconsistent with the provisions of this act, conferred on member banks by the federal reserve act.

(m) To become an insured bank under the federal deposit insurance act, and to take actions incident to an insured status under that act.

(n) To become a member and buy and hold stock of the federal home loan bank as defined in section 2 of the federal home loan bank act, chapter 522, 47 Stat. 725, 12 U.S.C. 1422, and to exercise those powers conferred upon a federal home loan bank member by the federal home loan bank that are consistent with this act.

(o) To sell mortgage loans to the federal national mortgage association, the federal home loan mortgage corporation, and the government national mortgage association, or successors of the associations, or any other secondary market loan purchaser and, in connection with these associations, to make payments of capital contributions, required by law, in the nature of subscriptions for stock of an association or successor of the association, to receive stock evidencing the capital contributions, and to hold or dispose of the stock.

(p) To conduct its business through subsidiaries, at the same location or a location different from the savings bank. A subsidiary may engage in all activities and make all investments permitted for a savings bank by this act or by rule, order, or declaratory ruling of the commissioner, except that a subsidiary may not accept deposits or engage in trust activities unless specifically authorized by the commissioner or by another statute of this state. In addition, a subsidiary may engage in activities specifically permitted for subsidiaries by order or declaratory ruling of the commissioner. Except upon written approval of the commissioner, a savings bank shall not be a general partner in a subsidiary.

(q) To engage in any aspect of the insurance and surety business as an agent, broker, solicitor, or insurance counselor as provided under the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, and to own an insurance agency in whole or in part as provided under Act No. 218 of the Public Acts of 1956.

(r) To give its bond in a proceeding in any court in which it is a party or upon an appeal in a proceeding, and to pledge assets as security for the bond.

(s) Notwithstanding any provision of this act, to acquire and hold property, or a security interest in property, as protection against loss on an evidence of indebtedness, on an agreement for the payment of money, or on an investment security previously acquired lawfully and in good faith, subject to disposition of property within a period of 60 months after the date of acquisition, or a longer period as the commissioner may approve.

(t) To service loans for others and to receive a fee for the service.

(u) To execute and deliver guarantees as may be incidental or usual in carrying on the business of banking.

(v) To make, sell, purchase, arrange, participate in, invest in, or otherwise deal in loans or extensions of credit for consumer purposes, which are unsecured or secured by liens or interests in personal property or real estate.

(w) To make, sell, purchase, arrange, participate in, invest in, or otherwise deal in loans or extensions of credit for agricultural, business, corporate, or commercial purposes, which are unsecured or secured by liens or interests in personal property or real estate.

(x) To borrow money from any source, assign or pledge any of its assets or properties as collateral security subject to limitations stated in section 508, and issue its notes, bonds, and other obligations.

(y) To make deposits in a bank organized solely for the purpose of providing banking services to financial institutions.

(z) To own and operate a messenger service or to own or invest in an entity that operates a messenger service.

(aa) To conduct business using electronic information processing, including the electronic processing and execution of transactions between a savings bank and its customers and a savings bank and other depository institutions.

(bb) To establish and operate a loan production office or loan production offices within this state and outside this state as permitted by section 418.

(cc) To contract with a person or entity to act as an agent in an agency office, as permitted by section 417(6).

(dd) To enter into principal and agent relationships with affiliated depository institutions. A savings bank or an affiliated depository institution in its capacity as an agent under this subsection may do all of the following:

- (i) Receive deposits.
- (ii) Permit withdrawals of deposits.
- (iii) Renew time deposits.
- (iv) Close loans.
- (v) Service loans.
- (vi) Receive loan payments.
- (vii) Engage in any activity specifically authorized by this act or by order or declaratory ruling of the commissioner.
- (ee) To sell money orders, travel checks, cashier's checks, and similar instruments drawn by it on its accounts or as agent for any organization empowered to sell the instruments through agents within this state.
- (ff) To guarantee the signatures of customers and others.
- (gg) To operate a safe and collateral deposit company or department under section 428.
- (hh) To engage directly in the real estate brokerage business as provided under article 25 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.2501 to 339.2518 of the Michigan Compiled Laws, and section 409.
- (ii) To own in whole or in part a real estate brokerage business as provided under Act No. 299 of the Public Acts of 1980 and section 409.
- (jj) To issue securities in the form of bonds, notes, debentures, and other evidence of indebtedness.

(2) The commissioner may promulgate rules under section 208, or issue declaratory rulings, or issue orders, permitting savings banks to exercise powers not authorized by this act. It is intended that this subsection shall vest in the commissioner the discretion and authority to authorize savings banks to exercise all powers appropriate and necessary to compete with other depository financial institutions and other providers of financial services. In the exercise of the discretion permitted by this subsection, the commissioner shall consider the ability of savings banks to exercise any additional power in a safe and sound manner, the authority of state and national banks, associations, and state and federal credit unions, operating under state or federal law or regulation, the powers of other competing entities providing financial services in this state, and any specific limitations on powers contained in this act or in any other state law. On at least a quarterly basis, the commissioner shall give notice to all savings banks of rules promulgated, or declaratory rulings or determinations, or orders, issued under this subsection.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.