



HOUSE BILL No. 5853

May 7, 1996, Introduced by Rep. Randall and referred to the Committee on Commerce.

A bill 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.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1

SHORT TITLE AND DEFINITIONS

Sec. 101. This act shall be known and may be cited as the "savings bank act".

Sec. 102. As used in this act:

(a) "Agency office" means a place at which the business of a savings bank is conducted other than by regularly employed personnel of the savings bank, as provided under section 417(7).

1 (b) "Articles" means articles of incorporation, all
2 amendments to articles of incorporation, and agreements of con-
3 solidation and merger.

4 (c) "Approved by the members", for a mutual savings bank,
5 means approved by a majority of all votes cast by the sharehold-
6 ers at a duly held regular meeting or special meeting.

7 (d) "Affiliate" means a corporation, business trust, associ-
8 ation, or similar organization to which 1 or more of the follow-
9 ing apply:

10 (i) A savings bank, directly or indirectly, owns or controls
11 either a majority of its voting shares or more than 50% of the
12 number of shares voted for the election of its directors, trust-
13 ees, or other persons exercising similar functions at the preced-
14 ing election, or controls in any manner the election of a major-
15 ity of its directors, trustees, or other persons exercising simi-
16 lar functions.

17 (ii) Control of the organization is held, directly or indi-
18 rectly, through stock ownership or in any other manner, by the
19 shareholders of a savings bank who own or control either a major-
20 ity of the shares of that savings bank or more than 50% of the
21 number of shares voted for the election of directors of that sav-
22 ings bank at the preceding election, or by trustees for the bene-
23 fit of the shareholders of that savings bank.

24 (iii) A majority of its directors, trustees, or other per-
25 sons exercising similar functions are directors of any 1 savings
26 bank.

1 (iv) Owns or controls, directly or indirectly, either a
2 majority of the shares of capital stock of any 1 savings bank or
3 more than 50% of the number of shares voted for the election of
4 directors of that savings bank at the preceding election, or con-
5 trols in any manner the election of a majority of the directors
6 of that savings bank, or for the benefit of whose shareholders or
7 members all or substantially all the capital stock of that sav-
8 ings bank is held by trustees.

9 (e) "Association" means a federal savings association orga-
10 nized under section 5 of the home owners' loan act, chapter 64,
11 48 Stat. 132, 12 U.S.C. 1464, or a savings and loan association,
12 building and loan association, or homestead association, that is
13 organized under the laws of a state or the District of Columbia
14 and whose deposits are insured by the federal deposit insurance
15 corporation.

16 (f) "Bank" means a state banking corporation organized or
17 reorganized under the provisions of the banking code of 1969, Act
18 No. 319 of the Public Acts of 1969, being sections 487.301 to
19 487.598 of the Michigan Compiled Laws, or organized under the
20 provisions of any law of this state enacted before August 20,
21 1969.

22 (g) "Branch" means a place of business, other than the prin-
23 cipal office of a savings bank, at which the savings bank trans-
24 acts business that may be conducted at its principal office.
25 Branch does not include a subsidiary, service entity, agency
26 office, loan production office, place where only records are
27 made, posted, or kept, place of business of a financial

1 institution with which the savings bank has an agency
2 relationship under section 401, or an automated teller machine if
3 it is made available to 2 or more federal or state chartered
4 financial institutions under a state statute which regulates
5 electronic funds transfer facilities. The acceptance of deposits
6 in furtherance of a school thrift or savings plan by an officer,
7 employee, or agent of a savings bank at any school is not the
8 establishment or operation of a branch. The receipt of deposits
9 by a messenger service or the delivery by messenger service of
10 items representing deposit account withdrawals or of loan pro-
11 ceeds is not the establishment or operation of a branch, whether
12 or not the messenger service is owned or operated by the savings
13 bank.

14 (h) "Bureau" means the financial institutions bureau in the
15 department of consumer and industry services.

16 (i) "Capital" means the stated par value of issued and out-
17 standing unimpaired common stock and the stated par value of
18 issued and outstanding unimpaired preferred stock.

19 (j) "Commissioner" means the commissioner of the financial
20 institutions bureau.

21 (k) "Compliance review committee" means both of the
22 following:

23 (i) One or more persons assigned by management or appointed
24 by the board of directors or other governing body of a depository
25 institution, or of a subsidiary of a depository institution, or
26 of a service corporation or other service entity of a depository
27 institution, for the purposes set forth in section 339.

1 (ii) Any other person to the extent the person acts in an
2 investigatory capacity at the direction of a compliance review
3 committee.

4 (l) "Compliance review documents" means documents prepared
5 in connection with a review or evaluation conducted by or for a
6 compliance review committee.

7 (m) "Consolidate", "consolidated", "consolidating", and
8 "consolidation" mean the consolidation or merger of 2 or more
9 depository institutions.

10 (n) "Consolidated savings bank" means a savings bank that
11 results from a consolidation between a savings bank and 1 or more
12 banks, out-of-state banks, national banks, associations, or sav-
13 ings banks.

14 (o) "Consolidated organization" means an out-of-state bank,
15 national bank, or association organized under the laws of another
16 state or the United States that results from a consolidation with
17 1 or more banks, out-of-state banks, national banks, associa-
18 tions, or savings banks.

19 (p) "Consolidating organizations" means any combination of
20 banks, out-of-state banks, national banks, associations, savings
21 banks, or state or federal credit unions that have consolidated
22 or are in the process of consolidation as provided in section 701
23 or 702.

24 (q) "Depository institution" means a bank, out-of-state
25 bank, national bank, association, savings bank, cooperative bank,
26 industrial bank, or credit union organized under the laws of this

1 state, another state, the District of Columbia, the United
2 States, or a territory or protectorate of the United States.

3 (r) "Director" means a director, trustee, or other person
4 performing similar functions with respect to an organization
5 whether incorporated or unincorporated. Director does not
6 include an advisory director, honorary director, director emeri-
7 tus, or similar person, unless the person is otherwise performing
8 functions similar to those of a director.

9 (s) "Federal reserve act" means the federal reserve act,
10 chapter 6, 38 Stat. 251.

11 (t) "Fiduciary" means a trustee, executor, administrator,
12 guardian, conservator, agent, receiver, trustee in bankruptcy,
13 assignee for creditors, or any holder of a similar position of
14 trust. It also describes the relationship of a director to a
15 savings bank as stipulated in section 323 of this act.

16 (u) "Foreign country" means a country other than the United
17 States and includes a colony, dependency, or possession of a
18 country other than the United States.

19 (v) "Impairment" means a condition in which the value of the
20 savings bank's assets is less than the aggregate amount of the
21 savings bank's liabilities to creditors and depositors, and less
22 than the aggregate par value of its capital stock, if the savings
23 bank is a stock savings bank, or a condition in which the value
24 of the savings bank's assets is less than the aggregate amount of
25 the savings bank's liabilities to creditors and members, if the
26 savings bank is a mutual savings bank.

1 (w) "Incorporator" means a person who signed the original
2 articles of incorporation.

3 Sec. 103. As used in this act:

4 (a) "Loan production office" means an office of the savings
5 bank at which only activities related to money lending are con-
6 ducted, which is not the principal office or a branch or an
7 agency office or an office of an affiliated depository
8 institution.

9 (b) "Member" means a person holding a savings account of a
10 mutual savings bank.

11 (c) "Messenger service" means a service such as a courier
12 service or an armored car service that picks up from or delivers
13 to customers of 1 or more depository institutions or 1 or more
14 affiliates of a depository institution cash, currency, checks,
15 drafts, securities, or other items relating to transactions
16 between or involving a depository institution or affiliate of a
17 depository institution and those customers, or that transfers
18 cash, currency, checks, drafts, securities, or other items or
19 documents between depository institutions or affiliates of depos-
20 itory institutions. The messenger service may be owned and oper-
21 ated by 1 or more depository institutions or affiliates or by a
22 third party.

23 (d) "Mobile branch" means a branch in which the location of
24 the physical structure of the branch is moved from time to time.

25 (e) "Mutual savings bank" means a savings bank for which the
26 articles of incorporation do not authorize the issuance of common
27 or preferred stock.

1 (f) "National bank" means a bank chartered by the federal
2 government under the national bank act, chapter 106, 13
3 Stat. 99.

4 (g) "Net profits" means the remainder of all earnings from
5 operations plus actual recoveries on loans and investments and
6 other assets, after deducting from the total all operating
7 expenses, actual losses, accrued dividends on preferred stock, if
8 any, and all taxes.

9 (h) "Out-of-state bank" means a banking corporation or sav-
10 ings bank organized under the laws of another state, the District
11 of Columbia, or a territory of the United States whose principal
12 office is located in a state other than this state, the District
13 of Columbia, a territory or a protectorate of the United States,
14 and whose deposits are insured by the federal deposit insurance
15 corporation.

16 (i) "Person" means an individual, corporation, limited
17 liability company, governmental entity, partnership, limited
18 liability partnership, or other legal entity.

19 (j) "Prudent person rule" means that in all activities con-
20 nected with a savings bank operating under this act, all offi-
21 cers, directors, employees, and agents of any kind of a savings
22 bank must exercise the judgment and care under circumstances then
23 prevailing that persons of prudence, discretion, and intelligence
24 exercise in the management of their own affairs, not in regard to
25 speculation, but in regard to the permanent disposition of their
26 funds, considering the probable income as well as the probable
27 safety of their capital.

1 (k) "Publication", "published", and "publish" mean
2 publication in a newspaper printed in the English language and
3 published and circulated in the county where the depository
4 institution is located or, if there is no newspaper published and
5 circulated in the county where the depository institution is
6 located, in any newspaper having general circulation in the
7 county.

8 (l) "Residential real estate" means improved real property
9 that is used or intended to be used as a residence or residences
10 and contains not more than 4 dwelling units.

11 (m) "Savings bank" means a state banking corporation orga-
12 nized or reorganized under this act.

13 (n) "Savings liability" or "deposit liability" means the
14 aggregate amount of accounts of depositors, including interest
15 accrued or credited to the accounts, less redemptions and
16 withdrawals.

17 (o) "Service entity" means a stock corporation, mutual com-
18 pany, limited liability company, limited liability partnership,
19 or limited partnership in which a savings bank has invested under
20 section 410. Upon written approval of the commissioner, a serv-
21 ice entity may be a general partnership.

22 (p) "Shareholder" means the registered owner of any share or
23 shares of capital stock of a savings bank.

24 (q) "Stock savings bank" means a savings bank for which the
25 articles of incorporation authorize the issuance of capital
26 stock.

1 (r) "Subsidiary" means a stock corporation, mutual company,
2 limited liability company, limited liability partnership, or
3 limited partnership, the controlling interests of which are more
4 than 50% owned by 1 or more federally insured depository institu-
5 tions, and in which a savings bank has an ownership interest,
6 membership interest, or other legally enforceable interest which
7 has the indicia of ownership. Upon written approval of the com-
8 missioner, and subject to the ownership requirements set forth in
9 this subsection, a subsidiary may be a general partnership.

10 (s) "Surplus" means the amount paid for issued and outstand-
11 ing common and preferred stock in excess of the stated par value,
12 plus any amount of transferred undivided profits, and any addi-
13 tional amounts paid in or contributed to increase total capital.

14 (t) "Total assets" means the total assets of the savings
15 bank minus the sum of intangible assets, including, but not
16 limited to, credit card servicing rights, good will, favorable
17 leaseholds, core deposit value, and purchased mortgaged servicing
18 rights.

19 (u) "Total capital" means an amount equal to any capital,
20 plus any surplus, undivided profits, and instruments of indebted-
21 ness authorized under section 310.

22 (v) "Undivided profits" means the amount of retained earn-
23 ings and any additional amounts held in capital reserve accounts
24 of the savings bank.

25 (w) "Value" means the present worth of all rights to future
26 benefits arising from ownership.

1 (x) "Withdrawal value of a deposit account" means the amount
2 invested in a deposit account, plus earnings, less lawful
3 deductions.

4 CHAPTER 2

5 ADMINISTRATION

6 Sec. 201. The financial institutions bureau shall have
7 jurisdiction over and execute the laws relating to savings banks
8 transacting business in this state.

9 Sec. 202. Unless the person is organized under this act, a
10 person shall not transact business under this act, do business
11 under any name or title, circulate, advertise, make representa-
12 tions or give information that indicates or implies the operation
13 of a business under this act.

14 Sec. 203. Unless the commissioner, for good cause shown,
15 waives the requirement, a savings bank shall secure insurance of
16 its deposit accounts backed by the full faith and credit of the
17 United States government prior to commencing business.

18 Sec. 204. (1) A savings bank shall satisfy 1 of the follow-
19 ing asset tests:

20 (a) An asset test requiring that not less than 50% of the
21 total assets of the savings bank, as measured by monthly averages
22 calculated at the close of each calendar month, in at least 9
23 months of the immediately preceding 12-month period, consist of 1
24 or more of the following:

25 (i) Loans that were made to purchase, refinance, construct,
26 improve, or repair domestic residential housing, including single
27 and multifamily dwellings, or manufactured housing.

1 (ii) Home equity loans.

2 (iii) Real property acquired as a result of foreclosure or
3 deed-in-lieu of foreclosure with respect to loans described in
4 this section.

5 (iv) Securities backed by or representing an interest in
6 mortgages on domestic residential housing, including single or
7 multifamily dwellings, or manufactured housing.

8 (v) Shares of stock issued by any federal home loan bank.

9 (vi) 50% of the dollar amount of the domestic residential
10 housing mortgage loans, including single or multifamily dwell-
11 ings, originated by the savings bank and sold within 90 days of
12 origination.

13 (vii) Investments both debt and equity in the capital stock
14 or obligations of and any other security issued by any service
15 entity or subsidiary of the savings bank, if the service corpora-
16 tion or subsidiary derives at least 80% of its annual gross reve-
17 nues from activities directly related to purchasing, refinancing,
18 constructing, improving, or repairing domestic residential hous-
19 ing, including single or multifamily dwellings, or manufactured
20 housing.

21 (viii) 200% of the dollar amount of loans and investments to
22 purchase, construct, or develop 1 to 4 family residences the pur-
23 chase price of which is, or is guaranteed to be, not greater than
24 60% of the median value of comparable newly-constructed 1 to 4
25 family residences within the savings bank's local community.

26 (ix) 200% of the dollar amount of loans for the purchase,
27 construction, development, or improvement of domestic residential

1 housing, churches or other places of worship, schools, nursing
2 homes, hospitals, and facilities serving similar functions within
3 a community, located within a geographic region or neighborhood
4 that has been identified by the commissioner as a geographic area
5 or neighborhood in which the credit needs of low and moderate
6 income residents are not being adequately met at the time the
7 relevant loan is made.

8 (x) Loans to small businesses located within a geographic
9 area described in subparagraph (ix).

10 (xi) Loans for the purchase, construction, development, or
11 improvement of churches or other places of worship, schools,
12 nursing homes, hospitals, and facilities serving similar func-
13 tions within a community.

14 (xii) Loans for the purchase, construction, development, or
15 improvement of facilities and residential developments dedicated
16 to public use or property used on a nonprofit basis for
17 residents.

18 (xiii) Loans for personal, family, household, or education
19 purposes.

20 (xiv) Shares of stock issued by the federal home loan mort-
21 gage corporation and the federal national mortgage association.

22 (xv) Loans secured by an interest in churches or other
23 places of worship, schools, nursing homes, hospitals, education-
24 al, health, or welfare institutions or facilities, facilities
25 designed or used primarily for residential purposes for students,
26 residents, and persons under care, employees, or members of the

1 staff of the institutions or facilities, and facilities serving
2 similar functions within a community.

3 (xvi) Cash and other highly liquid assets.

4 (xvii) Obligations of the United States or of a state or
5 political subdivision thereof, and stock or obligations of a cor-
6 poration that is an instrumentality of the United States or of a
7 state or political subdivision thereof, but not including obliga-
8 tions the interest on which is excludable from gross income under
9 section 415 of the internal revenue code of 1986.

10 (xviii) Property acquired through the liquidation of
11 defaulted loans described in this section.

12 (xix) Loans made for the payment of expenses of college or
13 university education or vocational training, in accordance with
14 order or declaratory ruling of the commissioner.

15 (xx) Property used by the savings bank in the conduct of its
16 business of acquiring the savings of the public and investing in
17 loans.

18 (b) An asset test prescribed by order or declaratory ruling
19 of the commissioner.

20 (2) If a multifamily dwelling securing a loan is used in
21 part for nonresidential purposes, the entire loan is deemed a
22 loan for domestic residential housing if the planned residential
23 use exceeds 80% of the property's planned use, determined as of
24 the time the loan is made. Loans made to finance the acquisition
25 or development of land shall be deemed loans for domestic resi-
26 dential housing if there is reasonable assurance that the

1 property will become residential real property within a period of
2 3 years from the date of acquisition of such land.

3 (3) In the event a savings bank does not satisfy either of
4 the asset tests of subsection (1), the savings bank shall
5 promptly notify the commissioner in writing of the failure.

6 (4) A savings bank which fails to satisfy either the asset
7 test of subsection (1), may requalify as a savings bank by meet-
8 ing the percentage of total assets test in subsection (1)(a) for
9 9 of the 12 months following notice to the commissioner, includ-
10 ing the month the notice is given, or a savings bank may requal-
11 ify as a savings bank by meeting a requalification test pre-
12 scribed by order or declaratory ruling of the commissioner. The
13 savings bank shall promptly give notice to the commissioner as
14 soon as the savings bank requalifies or fails to requalify as a
15 savings bank under this subsection.

16 (5) If the savings bank fails to requalify as a savings bank
17 under subsection (4), the savings bank shall make application
18 with the appropriate governmental agency to convert its charter,
19 or liquidate, but may continue to operate as a savings bank under
20 an order of the commissioner for the period of time stated in the
21 order. If the savings bank fails to comply with the order for
22 continued operation, or upon expiration of the time prescribed in
23 the order without conversion of charter or liquidation, the com-
24 missioner may appoint a conservator under section 605 or apply to
25 the circuit court for the county in which the savings bank is
26 located for the appointment of a receiver for the savings bank.

1 The activities of the conservator or receiver shall otherwise be
2 governed by the terms of chapter 6.

3 Sec. 205. The commissioner may appoint examiners and other
4 employees for the carrying out of this act. The compensation,
5 travel, and other expenses of the commissioner, deputy commis-
6 sioners, examiners, and employees shall be paid in the manner
7 provided by law for other state officers and employees, within
8 the appropriations made by the legislature.

9 Sec. 206. (1) During his or her term of office or employ-
10 ment, the commissioner, a deputy commissioner, or an examiner of
11 the bureau shall not be a shareholder, either directly or indi-
12 rectly, of a savings bank or safe and collateral deposit company,
13 or of any affiliate or subsidiary thereof.

14 (2) During his or her term of office or employment, the com-
15 missioner, a deputy commissioner, or an examiner of the bureau
16 shall not be an officer, director, or employee of a savings bank
17 or safe and collateral deposit company, or of any affiliate or
18 subsidiary thereof, or receive, either directly or indirectly, a
19 fee, perquisite, reward, emolument, or other compensation from
20 such entities.

21 (3) The commissioner, deputy commissioner, or examiner shall
22 not borrow money, directly or indirectly, from a savings bank,
23 except for a mortgage loan upon the mortgagor's own home or upon
24 installment debt transferred to a savings bank in the regular
25 course of business by a seller of consumer goods. This subsec-
26 tion does not apply to loans made prior to the person's
27 respective term of office. If the commissioner, a deputy

1 commissioner, or an examiner of the bureau borrows from, or is or
2 becomes indebted to a savings bank, he or she shall make a writ-
3 ten report to the bureau, or to the governor in the case of the
4 commissioner, stating the date and amount of the loan or indebt-
5 edness, the security given on the loan, and the purpose for which
6 the proceeds have been or are to be used.

7 Sec. 207. The commissioner, deputy commissioner, examiner,
8 or other employee of the bureau shall not be liable in any civil
9 action for damages for any act done or omitted in good faith in
10 performing the functions of his or her office.

11 Sec. 208. (1) The commissioner may promulgate rules in
12 addition to those specifically provided for by this act as he or
13 she may deem necessary to effectuate and enforce this act in
14 accordance with the administrative procedures act of 1969, Act
15 No. 306 of the Public Acts of 1969, being sections 24.201 to
16 24.328 of the Michigan Compiled Laws.

17 (2) The commissioner may also issue orders and declaratory
18 rulings as he or she may deem necessary to effectuate the pur-
19 poses and to execute and enforce the provisions of this act.

20 Sec. 209. (1) A savings bank together with its subsidi-
21 aries, service entities, and entities the controlling interests
22 of which are more than 50% owned by subsidiaries or service enti-
23 ties or association service corporations, are subject to examina-
24 tion of the commissioner, with or without prior notice, 1 or more
25 times in each calendar year concerning the conditions and affairs
26 of the savings bank. The commissioner shall also examine a
27 savings bank under the commissioner's jurisdiction when requested

1 by its board of directors. In connection with an examination,
2 the commissioner, or the commissioner's authorized agent, may
3 examine on oath a director, officer, agent, employee, or share-
4 holder of a savings bank concerning the affairs and business of
5 the savings bank. The commissioner shall ascertain whether the
6 savings bank transacts its business in the manner prescribed by
7 law and the rules promulgated pursuant to law. The commissioner,
8 or the commissioner's authorized agent, may make an examination
9 of an affiliate, subsidiary, or service entity necessary to dis-
10 close fully the relationship between a savings bank and the
11 affiliate, subsidiary, or service entity and the effect of the
12 relationship upon the savings bank.

13 (2) The commissioner may examine the branch or branches
14 located in this state of an out-of-state bank under the federal
15 deposit insurance act, chapter 967, 64 Stat. 873.

16 (3) In fulfilling the requirements of subsections (1) and
17 (2), the commissioner may use an examination made under the fed-
18 eral deposit insurance act, or the law of another state governing
19 the activities of out-of-state banks in that state. The commis-
20 sioner may require the savings bank to furnish a copy of any
21 report required by a federal or state bank regulatory agency.

22 (4) An examination required by this section shall include
23 the fiduciary activities of the savings bank.

24 (5) The commissioner may contract with other state bank
25 regulatory agencies to assist in the conduct of examinations of
26 banks with 1 or more branches located in other states and in

1 examination of out-of-state banks with 1 or more branches located
2 in this state.

3 Sec. 210. (1) The commissioner shall periodically establish
4 a schedule of annual supervisory fees to be paid by savings
5 banks. Annual supervisory fees shall be based on the estimated
6 cost of supervision of savings banks.

7 (2) Each savings bank shall pay an annual supervisory fee
8 each calendar year. The fee shall be not less than 4 cents or
9 more than 25 cents for each \$1,000.00 of total assets of the sav-
10 ings bank as reported by the savings bank on its report of condi-
11 tion as of December 31 of the previous year. The annual supervi-
12 sory fee for a savings bank shall not be less than \$1,000.00.

13 (3) The commissioner shall provide an invoice of the annual
14 supervisory fee to each savings bank by July 1 of each year. The
15 annual supervisory fee shall be paid by August 15 of that year.

16 (4) If a savings bank does not receive a supervisory exami-
17 nation during a calendar year for which a supervisory fee has
18 been paid, it shall receive a credit of not less than 30% or more
19 than 70% of the fee against its next annual supervisory fee. The
20 supervisory fee credit shall be determined annually by the com-
21 missioner and shall be the same for all savings banks.

22 (5) The initial supervisory fee for a savings bank that
23 obtained a charter as a result of a conversion during the initial
24 supervisory year under this act shall be based on the total
25 assets as reported in its report of condition as of December 31
26 of the previous year under the prior charter.

1 (6) The initial supervisory fee of a savings bank newly
2 organized and chartered under this act, during the initial
3 supervisory year, shall be the minimum supervisory fee estab-
4 lished by the commissioner.

5 (7) The commissioner shall periodically establish a schedule
6 of fees, beyond those charged for normal supervision, to be paid
7 for applications, special evaluations and analyses, and examina-
8 tions, including examinations of trust services and safe deposit
9 and collateral deposit companies.

10 (8) The fees established under subsection (7) shall be equal
11 to the estimated cost of the bureau for conducting the activity
12 for which the fee is imposed.

13 (9) The commissioner may charge reasonable fees for furnish-
14 ing and certifying copies of documents or serving notices
15 required by this act.

16 (10) To the extent any fees assessed under this act are
17 unpaid when due, the commissioner may, upon proper notice, main-
18 tain an action against the savings bank for the recovery of the
19 fees plus interest and costs.

20 (11) The fees collected under this section are not refund-
21 able and shall be paid into the state treasury to the credit of
22 the bureau and used only for the operation of the bureau.

23 Sec. 211. The commissioner may petition the circuit court
24 for the county in which the examination is being carried on to
25 issue a subpoena on behalf of the bureau requiring a person to
26 appear before the bureau and be examined under oath with
27 reference to any matter within the scope of an examination of a

1 savings bank under this act, and to produce books, records, or
2 papers. A failure to obey the subpoena of the circuit court may
3 be punished by the circuit court as a contempt of the circuit
4 court.

5 Sec. 212. (1) A person shall not be excused from testifying
6 or from producing any books, papers, records, or memoranda in any
7 examination when ordered to do so by the commissioner, upon the
8 ground that the testimony or evidence, documentary, or otherwise,
9 may tend to incriminate him or her or subject him or her to a
10 criminal penalty. An individual shall not be prosecuted or sub-
11 jected to any penalty or forfeiture for or on account of any
12 transaction, matter, or thing concerning which he or she is com-
13 pelled, after having claimed his or her privilege against
14 self-incrimination, to testify or produce evidence, documentary,
15 or otherwise.

16 (2) An individual shall not be exempt from prosecution or
17 punishment for perjury committed in testifying.

18 Sec. 213. (1) The commissioner and all deputies, agents,
19 and employees of the bureau shall be bound by oath to keep secret
20 all facts and information obtained in the course of their duties,
21 except if the person is required under law to report upon, take
22 official action, or testify in any proceedings regarding the
23 affairs of a savings bank.

24 (2) Notwithstanding subsection (1), the commissioner may
25 make disclosure to persons at such times as is in the public
26 interest within the purposes of this act.

1 (3) The provisions of this section are not applicable to,
2 and do not prohibit the furnishing of information or documents
3 to, the federal, or out-of-state bank, or association regulatory
4 agencies.

5 Sec. 214. (1) Except with respect to rules promulgated
6 under section 208, a cease and desist order made under sections
7 215 to 226, and an order made on an application seeking approval
8 of the commissioner under section 302, 303, 336, 412, or 701, a
9 savings bank or an interested party who is dissatisfied with an
10 order, ruling, objection, or finding issued by the commissioner
11 may request a reconsideration of the order, ruling, objection, or
12 finding within 10 days after the issuance of the order, ruling,
13 objection, or finding. Within 30 days after the receipt of a
14 written request for reconsideration, the commissioner shall set
15 the matter for a formal hearing unless a formal hearing has been
16 held before the issuance of the order, ruling, objection, or
17 finding. The commissioner may conduct a formal hearing before
18 the issuance of an order, ruling, objection, or finding.

19 (2) A hearing held under subsection (1) shall be conducted
20 under the administrative procedures act of 1969, Act No. 306 of
21 the Public Acts of 1969, being sections 24.201 to 24.328 of the
22 Michigan Compiled Laws.

23 (3) The commissioner shall require an entity making an
24 application under section 302, 303, 336, 412, or 701 to give
25 notice of the application by publication. The applicant, within
26 10 days after the acceptance of an application, shall publish
27 notice in the community or communities in which the savings bank,

1 or bank holding company, involved in the subject application is
2 located. Publication shall be 1 time per week for 2 consecutive
3 weeks in the form prescribed by the commissioner. The interval
4 between publications shall not be less than 5 days. Proof of
5 publication shall be filed with the commissioner within 10 days
6 after the date of the second publication of notice.

7 (4) An interested party who desires to protest the applica-
8 tion shall file a written notice of protest with the commissioner
9 and with the applicant within 10 days after the date of the
10 second publication of notice. Within 30 days after the date of
11 the second publication of notice, an interested party who has
12 filed a written notice of protest shall file with the commis-
13 sioner and with the applicant a written statement setting forth
14 all of the following:

15 (a) A list of specific items in the application that are the
16 basis for the protest and an explanation of the reasons for the
17 protest.

18 (b) A statement of the facts supporting the reasons for the
19 protest including economic and financial data.

20 (c) A request for oral argument if desired.

21 (5) Within 40 days after the date of the second publication
22 of notice, the applicant may file with the commissioner and with
23 the parties that have filed written notice of protest written
24 material in response to the written statement and may request
25 oral argument before the commissioner if oral argument has not
26 been requested by an interested party who has filed a written
27 notice of protest.

1 (6) Oral argument may be held at the commissioner's
2 discretion if neither the applicant nor an interested party
3 requests oral argument.

4 (7) An oral argument, if scheduled as provided in this sec-
5 tion, shall be held within 55 days after the date of the second
6 publication of notice.

7 (8) Only the applicant and those interested parties who have
8 filed written statements under subsection (4) may participate in
9 the oral argument. Oral argument may be made by each party or by
10 an authorized representative. Oral argument shall be limited to
11 issues raised in the materials submitted in connection with the
12 application and the protest. One hour shall be permitted to each
13 participant other than the applicant for oral argument. The
14 applicant shall have as much time as all other participants have
15 been permitted. The commissioner shall have a stenographic
16 record made of the oral argument, with costs to be allocated
17 equally among the parties requesting oral argument unless other-
18 wise provided by rule of the commissioner.

19 (9) The commissioner shall issue an order within 100 days
20 after the filing of the application. If an application is
21 denied, or if a protested application is approved, the commis-
22 sioner shall provide a detailed written explanation of the basis
23 of the commissioner's decision. Appeal of an order shall not be
24 made by a party without first requesting a reconsideration of the
25 order under subsection (10).

26 (10) The applicant or an interested party who filed written
27 statements under subsection (4) and who participated in the oral

1 argument, if held, who is dissatisfied with an order of the
2 commissioner may, within 5 days after the issuance of the order,
3 file with the commissioner a written request for reconsideration
4 of the order stating the reasons for the request. The commis-
5 sioner, within 10 days of receiving the request for considera-
6 tion, shall render a decision on the request for
7 reconsideration. If a petition for reconsideration is granted,
8 the commissioner shall grant the applicant and all interested
9 parties 10 days to file written arguments or briefs. The commis-
10 sioner may conduct an oral argument after granting a petition for
11 reconsideration. The argument shall be held within 10 days after
12 granting the petition. The commissioner shall issue a final
13 order within 20 days after granting the petition for
14 reconsideration.

15 (11) The commissioner may promulgate rules pursuant to the
16 administrative procedures act of 1969, Act No. 306 of the Public
17 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
18 Compiled Laws. The rules shall be consistent with this section.

19 Sec. 215. (1) If in the opinion of the commissioner a sav-
20 ings bank is engaging, has engaged, or is about to engage in an
21 unsafe or unsound practice in conducting the business of the sav-
22 ings bank or is violating, has violated, or is about to violate a
23 law or rule, the commissioner may issue and serve upon the sav-
24 ings bank a notice of charges in respect to the practice or
25 violation. The notice shall contain a statement of the facts
26 constituting the alleged unsafe or unsound practice or violation,
27 and shall fix a time and place at which a hearing will be held to

1 determine whether an order to cease and desist should issue
2 against the savings bank.

3 (2) The hearing shall be not earlier than 30 days or later
4 than 60 days after service of the notice unless another date is
5 set by the commissioner at the request of the savings bank.
6 Unless the savings bank appears at the hearing by a duly autho-
7 rized representative, it shall be deemed to have consented to the
8 issuance of the cease and desist order.

9 (3) In the event of a consent, or if upon the record made at
10 the hearing, the commissioner finds that an unsafe or unsound
11 practice or violation specified in the notice of charges has been
12 established, the commissioner may issue and serve upon the sav-
13 ings bank an order to cease and desist from the practice or
14 violation. The order may require the savings bank and its direc-
15 tors, officers, employees, and agents to cease and desist from
16 the practice or violation and to take affirmative action to cor-
17 rect the conditions resulting from the practice or violation.

18 (4) A cease and desist order becomes effective at the expi-
19 ration of 30 days after the service of the order upon the savings
20 bank, except in the case of an order issued upon consent which
21 shall become effective at the time specified in the order, and
22 shall remain effective and enforceable as provided in the order,
23 except to the extent it is stayed, modified, terminated, or set
24 aside by action of the commissioner or a reviewing court.

25 (5) If the commissioner determines that an out-of-state bank
26 branch located in this state is acting in violation of the laws
27 of this state or that the activities of the branch are being

1 conducted in an unsafe and unsound manner, the commissioner may
2 undertake enforcement actions and proceedings as would be permit-
3 ted if the branch were a savings bank.

4 Sec. 216. (1) If the commissioner determines that the vio-
5 lation or unsafe or unsound practice specified in the notice of
6 charges served upon the savings bank under section 215 is likely
7 to cause insolvency or substantial dissipation of assets or earn-
8 ings of the saving bank, or is likely to otherwise seriously
9 prejudice the interests of its depositors, the commissioner may
10 issue a temporary order requiring the savings bank to cease and
11 desist from the violation or practice. The order shall become
12 effective upon service upon the savings bank, unless set aside,
13 limited, or suspended by a court in proceedings authorized by
14 subsection (2), and shall remain effective and enforceable pend-
15 ing the completion of the administrative proceedings under the
16 notice and until such time as the commissioner shall dismiss the
17 charges specified in the notice or if a cease and desist order is
18 issued against the savings bank, until the effective date of such
19 order.

20 (2) No later than 10 days after the savings bank has been
21 served with a temporary cease and desist order, the savings bank
22 may apply to the circuit court for the county in which the home
23 office of the savings bank is located for an injunction setting
24 aside, limiting, or suspending the enforcement, operation, or
25 effectiveness of the order pending the completion of the adminis-
26 trative proceedings pursuant to the notice of charges served upon

1 the savings bank under section 215 and the court shall have
2 jurisdiction to issue the injunction.

3 Sec. 217. (1) If in the opinion of the commissioner a
4 director or officer of a savings bank has committed a violation
5 of law or rule or of a cease and desist order that has become
6 final, or has engaged or participated in an unsafe or unsound
7 practice in connection with the savings bank, or has committed or
8 engaged in an act, omission, or practice that constitutes a
9 breach of his or her fiduciary duty as a director or officer and
10 the commissioner determines that the savings bank has suffered or
11 will probably suffer substantial financial loss or other damage
12 or that the interest of its depositors could be seriously preju-
13 diced by reason of the violation, practice, or breach of fidu-
14 ciary duty, the commissioner may serve upon the director or offi-
15 cer a written notice of his or her intention to remove him or her
16 from office.

17 (2) If in the opinion of the commissioner a director or
18 officer of a savings bank, by conduct or practice with respect to
19 another savings bank or other business organization which
20 resulted in substantial financial loss or other damage, has evi-
21 denced his or her personal unfitness to continue as a director or
22 officer and if in the opinion of the commissioner, any other
23 person participating in the conduct of the affairs of any savings
24 bank, by conduct or practice with respect to such savings bank or
25 other business organization which resulted in substantial finan-
26 cial loss or other damage, has evidenced his or her personal
27 unfitness to participate in the conduct of the affairs of such

1 savings bank, the commissioner may serve upon the director,
2 officer, or other person a written notice of his or her intention
3 to remove him or her from office or to prohibit his or her fur-
4 ther participation in any manner in the conduct of the affairs of
5 the savings bank.

6 (3) In addition to a notice sent under subsection (1) or
7 (2), if the commissioner deems it necessary for the protection of
8 the savings bank or the interests of its depositors that the
9 director, officer, or other person be immediately suspended from
10 office or prohibited from further participation in any manner in
11 the conduct of the affairs of the savings bank, the commissioner
12 may serve upon the director, officer, or other person a written
13 notice suspending him or her from office or prohibiting him or
14 her from further participation in any manner in the conduct of
15 affairs of the savings bank. The suspension or prohibition shall
16 become effective upon service of the notice and, unless stayed by
17 a court in proceedings authorized by section 218, shall remain in
18 effect pending the completion of the administrative proceedings
19 under the notice served under subsection (1) or (2) and until
20 such time as the commissioner may dismiss the charges specified
21 in the notice or, if an order of removal or prohibition is issued
22 against the director, officer, or other person, until the effec-
23 tive date of the order. Copies of the notice shall also be
24 served upon the savings bank of the director or officer or in the
25 conduct of whose affairs he or she has participated.

26 (4) A notice of intention to remove a director, officer, or
27 other person from office or to prohibit his or her participation

1 in the conduct of the affairs of any savings bank shall contain a
2 statement of the facts constituting grounds for the notice, and
3 shall fix a time and place at which a hearing will be held. The
4 hearing shall be held not earlier than 30 days nor later than 60
5 days after the date of service of the notice, unless another date
6 is set by the commissioner at the request of the director, offi-
7 cer, or other person and for good cause shown.

8 (5) Unless the director, officer, or other person appears at
9 the hearing in person or by a duly authorized representative, he
10 or she shall be deemed to have consented to the issuance of an
11 order of removal or prohibition. In the event of consent, or if
12 upon the record made at the hearing the commissioner finds that
13 any of the grounds specified in the notice have been established,
14 the commissioner may issue an order of suspension or removal from
15 office, or prohibition from participation in the conduct of the
16 affairs of the savings bank. The order shall become effective at
17 the expiration of 30 days after service upon the savings bank and
18 the director, officer, or other person, except in the case of an
19 order issued upon consent, which shall become effective at the
20 time specified in the order. The order shall remain effective
21 and enforceable unless it is stayed, modified, terminated, or set
22 aside by action of the commissioner or a reviewing court.

23 Sec. 218. No later than 10 days after a director, officer,
24 or other person has been suspended from office or prohibited from
25 participation in the conduct of the affairs of a savings bank
26 under section 217, the director, officer, or other person may
27 apply to the circuit court for the county in which the home

1 office of the savings bank is located for a stay of the
2 suspension or prohibition pending the completion of the adminis-
3 trative proceedings under the notice served upon the director,
4 officer, or other person under section 217.

5 Sec. 219. (1) If a director or officer of a savings bank or
6 other person participating in the conduct of the affairs of a
7 savings bank is charged in any information, indictment, warrant,
8 or complaint authorized by a county, state, or United States
9 authority with the commission of or participation in a felony
10 involving dishonesty or breach of trust, the commissioner, by
11 written notice served upon the director, officer, or other
12 person, may suspend him or her from office or prohibit him or her
13 from further participation in any manner in the conduct of the
14 affairs of the savings bank. A copy of the notice shall also be
15 served upon the savings bank.

16 (2) The suspension or prohibition shall remain in effect
17 until the information, indictment, warrant, or complaint is
18 finally disposed of or until terminated by the commissioner. If
19 a judgment of conviction with respect to the offense is entered
20 against the director, officer, or other person, and the judgment
21 is not subject to further appellate review, the commissioner may
22 issue and serve upon the director, officer, or other person an
23 order removing him or her from office or prohibiting him or her
24 from further participation in any manner in the conduct of the
25 affairs of the savings bank.

1 (3) A copy of the order shall also be served upon the
2 savings bank, whereupon the director or officer shall cease to be
3 a director or officer of the savings bank.

4 (4) A finding of not guilty or other disposition of the
5 charge shall not preclude the commissioner from instituting pro-
6 ceedings to suspend or remove the director, officer, or other
7 person from office or to prohibit further participation in sav-
8 ings bank affairs, under section 217.

9 Sec. 220. If, because of the suspension or removal of 1 or
10 more directors under this act, the board of directors of a sav-
11 ings bank has less than a quorum of directors, all powers and
12 functions vested in or exercisable by the board shall vest in and
13 be exercisable by the remaining directors on the board. If all
14 of the directors of a savings bank are suspended or removed under
15 this act, the commissioner shall appoint persons to serve tempo-
16 rarily as directors pending the termination of the suspensions or
17 removals, or until such time as their successors are duly elected
18 and take office.

19 Sec. 221. (1) A hearing provided for in this chapter shall
20 be conducted in accordance with the administrative procedures act
21 of 1969, Act No. 306 of the Public Acts of 1969, being sections
22 24.201 to 24.328 of the Michigan Compiled Laws. The hearing
23 shall be private unless the commissioner determines that a public
24 hearing is necessary to protect the public interest.

25 (2) After the hearing and within 90 days after the commis-
26 sioner has notified the parties that the case has been submitted
27 for final decision, the commissioner shall render a decision that

1 shall include findings of fact upon which the decision is based
2 and issue and serve upon each party to the proceeding an order
3 consistent with the decision.

4 (3) A party to the proceeding, or a person required by an
5 order issued under sections 215 to 225 to cease and desist from
6 any of the violations or practices stated in the order or to be
7 suspended, removed, or prohibited from participation in the con-
8 duct of the affairs of any savings bank, may obtain a review of
9 an order served under subsection (2), other than a consent order,
10 which shall be reviewed as provided in Act No. 306 of the Public
11 Acts of 1969.

12 (4) Unless a petition for review is timely filed as provided
13 in that act, the commissioner, at any time, upon notice and in a
14 manner as he or she deems proper, may modify, terminate, or set
15 aside the order. Upon the timely filing of a petition for
16 review, the commissioner may modify, terminate, or set aside the
17 order with the permission of the court.

18 (5) Unless specifically ordered by the court, the commence-
19 ment of proceedings for judicial review under subsection (3)
20 shall not operate as a stay of any order issued by the
21 commissioner.

22 Sec. 222. The commissioner may apply to the circuit court
23 of the county in which the home office of the savings bank is
24 located, or in the circuit court for Ingham county, for the
25 enforcement of an effective and outstanding notice or order
26 issued under sections 215 to 225, including any temporary cease
27 and desist order issued under section 216(1), and the court shall

1 have jurisdiction to order and require compliance with the notice
2 or order. Except as otherwise provided in this act, a court
3 shall not have jurisdiction to review, modify, suspend, termi-
4 nate, or set aside a notice or order under this section.

5 Sec. 223. A director or officer, or former director or
6 officer, of a savings bank or any other person against whom there
7 is outstanding and effective a notice or final order served upon
8 the director, officer, or other person under section 217(1), (2),
9 or (3), or section 219, who participates in any manner in the
10 conduct of the affairs of the savings bank involved, or directly
11 or indirectly solicits or procures, or transfers or attempts to
12 transfer, or votes or attempts to vote, any proxies, consents, or
13 authorizations in respect of the voting rights in the savings
14 bank, or without the prior written approval of the commissioner,
15 votes for a director, serves or acts as a director, officer, or
16 employee of a savings bank, shall be fined not more than
17 \$5,000.00 or imprisoned for not more than 1 year, or both.

18 Sec. 224. (1) A service required or authorized to be made
19 by the commissioner under sections 215 to 225 may be made by reg-
20 istered or certified mail, or in any other manner reasonably cal-
21 culated to give actual notice as the commissioner by rule or oth-
22 erwise may provide. Copies of a notice or order served by the
23 commissioner upon a savings bank, any director or officer, or any
24 other person participating in the conduct of the savings bank's
25 affairs shall also be sent to the appropriate federal supervisory
26 authorities.

1 (2) In connection with the issuance of a cease and desist
2 order under this act, the commissioner shall inform the governor
3 of his or her intent to issue the order. Failure to inform the
4 governor renders the order invalid.

5 Sec. 225. In connection with a proceeding under section
6 215, 216(1), or 217, the commissioner shall provide the appropri-
7 ate federal supervisory authorities with notice of intent to
8 institute a proceeding and the grounds for the proceeding. An
9 institution or other party who is the subject of a notice or
10 order issued by the commissioner under sections 215 to 225 shall
11 not have standing to raise the requirements of section 224 or
12 this section with respect to notifying federal supervisory
13 authorities as ground for attacking the validity of a notice or
14 order.

15 Sec. 226. As used in sections 215 to 225:

16 (a) "Cease and desist order which has become final" and
17 "order which has become final" mean a cease and desist order or
18 an order issued by the commissioner with the consent of the
19 institution or the director or officer or other person concerned
20 or with respect to which no petition for review of the action of
21 the commissioner has been filed in a circuit court or with
22 respect to which the action of the court in which the petition is
23 filed is not subject to further review by the courts of the
24 state.

25 (b) "Violation" includes any action, alone or with others,
26 for or toward causing, bringing about, participating in,

1 counseling, or aiding or abetting a violation under sections 215
2 to 225.

3 CHAPTER 3

4 CORPORATE STRUCTURE

5 Sec. 301. A corporation may be formed by 1 or more persons
6 in accordance with the laws of this state for the purpose of con-
7 ducting a savings bank business.

8 Sec. 302. (1) A person shall apply to the commissioner for
9 permission to organize a savings bank under this act. The appli-
10 cation shall be on forms prescribed by the commissioner and set
11 forth such information as the commissioner may require.

12 (2) After making application, the incorporators shall pub-
13 lish notice twice and in consecutive weeks that the application
14 has been made. The notice shall set forth the names and
15 addresses of the incorporators and the proposed name and location
16 of the savings bank to be organized. Proof of the notice shall
17 be furnished to the commissioner within 30 days after the date of
18 the application. The commissioner may waive the publication
19 requirements, if in his or her opinion, the waiver is necessary
20 or appropriate in the public interest.

21 (3) The commissioner shall examine the information and
22 statements contained in the application as well as make any other
23 or further investigation as to the persons, conditions, and cir-
24 cumstances surrounding or in an any manner affecting or pertain-
25 ing to the organization of the savings bank, and he or she shall
26 make a careful investigation sufficient to satisfy him or her as
27 to all of the following:

1 (a) Whether the character, responsibility, and fitness of
2 the incorporators and of the proposed directors and officers, and
3 their motives in seeking to organize the savings bank are such as
4 to command the confidence of the community and to warrant the
5 belief that the business of the proposed savings bank will be
6 honestly and efficiently conducted.

7 (b) Whether the convenience and needs of the public will be
8 served by the proposed savings bank.

9 (c) The likelihood of successful operation of the proposed
10 savings bank, giving consideration to, but not by way of limita-
11 tion, all of the following:

12 (i) Population density.

13 (ii) Economic characteristics of the area primarily to be
14 served.

15 (iii) The competition offered by existing savings banks,
16 other financial institutions, and other providers of financial
17 services.

18 (d) Whether the capital structure of the proposed savings
19 bank meets the requirements of section 307.

20 (e) Whether there has been or will be any violation of sec-
21 tion 304.

22 (4) The commissioner shall approve or disapprove the appli-
23 cation in writing within 100 days of the receipt of the applica-
24 tion or the last amendment or supplement to the application,
25 except that in the case of an application to organize a new bank
26 under section 706 for the sole purpose of consolidating or
27 merging the new bank with or into an existing bank, the

1 commissioner shall approve or disapprove the application in
2 writing within 30 days of the receipt of the application or the
3 last amendment or supplement to the application. If the commis-
4 sioner disapproves the application, the applicants may appeal in
5 the manner provided in section 214.

6 Sec. 303. (1) Any number of depository institutions may
7 apply to incorporate a savings bank exclusively to serve deposi-
8 tory institutions or their officers, directors, and employees.

9 (2) A depository institution shall apply to the commissioner
10 for permission to organize a savings bank under this act, which
11 application shall be on forms prescribed by the commissioner and
12 set forth the information the commissioner requires.

13 (3) The commissioner shall examine the information contained
14 in the application and make any other investigation the commis-
15 sioner considers necessary pertaining to the organization of the
16 new savings bank. The commissioner shall issue to the appli-
17 cants, within the time period provided in section 214, written
18 notice of approval or disapproval of the application.

19 (4) Except as otherwise provided by rule, a savings bank
20 organized under this section is not subject to the provisions of
21 section 302, but shall comply with all other provisions of this
22 act.

23 (5) The shares of stock of a stock savings bank organized
24 under this section shall be owned exclusively by depository
25 institutions.

1 (6) As used in this section, "applicant" means the
2 depository institutions making an application under this
3 section.

4 (7) The commissioner may promulgate rules pursuant to the
5 administrative procedures act of 1969, Act No. 306 of the Public
6 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
7 Compiled Laws, to implement and enforce this section.

8 Sec. 304. (1) Following the date authorized by the commis-
9 sioner for the savings bank to commence business, the savings
10 bank may reimburse the organizers for reasonable and necessary
11 organizational expenses. Any reimbursement under this section
12 shall be predicated upon an accounting of the organizational
13 expenses by an independent certified public accountant which
14 shall be prepared in accordance with generally accepted account-
15 ing principles.

16 (2) The commissioner may review the accounting of the orga-
17 nizational expenses and may order the organizers to restore any
18 sums that were reimbursed for other than reasonable and necessary
19 expenses.

20 Sec. 305. (1) Upon approval of the application, at least 2
21 original articles of incorporation executed by a majority of the
22 applicants shall be submitted to the commissioner. If the com-
23 missioner finds that the articles conform to law and that all
24 fees and charges have been paid as required by law, he or she
25 shall approve and file 1 of the original articles in his or her
26 office and certify and forward 1 of the original articles to the
27 incorporators.

1 (2) As a condition for approving, certifying, and
2 distributing the articles of incorporation, the incorporators
3 shall furnish evidence that a firm commitment to insure deposit
4 accounts up to the maximum permitted by federal law has been
5 issued by the federal deposit insurance corporation, unless the
6 commissioner, for good cause shown, waives the requirement to
7 furnish the evidence.

8 (3) The articles of incorporation shall provide all of the
9 following information:

10 (a) The name of the savings bank. The name shall not be
11 similar to the name of any other savings bank transacting busi-
12 ness in this state that would cause confusion.

13 (b) The county and the city, incorporated village, or town-
14 ship where the principal office of the savings bank is to be
15 located and conduct its business.

16 (c) The purpose or purposes of incorporation as provided in
17 this act.

18 (d) The authorized number of shares of common and preferred
19 stock for a stock savings bank and 1 of the following:

20 (i) If the savings bank is to be authorized to issue only 1
21 class of stock, the par value of the shares.

22 (ii) If the savings bank is to be authorized to issue more
23 than 1 class of stock, the number of shares of each class, the
24 par value of each class, and a statement of all designations,
25 powers, preferences, rights, qualifications, limitations, and
26 restrictions of each class.

1 (e) The names, places of residence, and addresses of the
2 incorporators and the number of shares subscribed for each
3 incorporator.

4 (f) The period for which the savings bank is organized,
5 which may be in perpetuity.

6 (g) Any other provisions consistent with the business of
7 banking and for the conduct of the affairs of the savings bank.

8 (4) If the commissioner approves and files the articles of
9 incorporation under this act, the savings bank shall become a
10 body corporate. A savings bank shall not transact any business,
11 except as is incidental and necessary to its organization, until
12 it has been authorized by the commissioner to commence business.

13 (5) Except shareholders, officers, and directors of a sav-
14 ings bank, a person dealing with a savings bank organized under
15 this act shall not be charged with constructive notice of the
16 contents of any articles or papers by reason of a filing required
17 under this act.

18 Sec. 306. (1) Within 30 days after the approval and filing
19 of its articles of incorporation, or such later time not to
20 exceed 1 year as approved by the commissioner, the savings bank
21 shall notify the commissioner that all of its capital and surplus
22 has been fully paid in and that it has complied with all the pro-
23 visions of this act required to be complied with before a savings
24 bank shall be authorized to commence business.

25 (2) The commissioner shall make such examinations as he or
26 she deems necessary to verify the same and if it appears that the
27 savings bank is lawfully entitled to commence business, the

1 commissioner, within 30 days after receiving the notice under
2 this section, shall give to the savings bank a certificate under
3 the official seal of the bureau that the savings bank has com-
4 plied with all of the required provisions and is authorized to
5 commence business.

6 (3) The application shall be deemed abandoned and of no fur-
7 ther effect if the savings bank fails to furnish the notice pro-
8 vided required by this section within the specified time or fails
9 to comply with the required provisions within such period of time
10 as the commissioner determines.

11 (4) The first meeting of every savings bank shall be called
12 by a notice signed by any incorporator designating the time and
13 place of the meeting and stating the purpose for which the meet-
14 ing is called. The notice shall be served on all the incorpora-
15 tors at least 5 days before the date set for the meeting. If all
16 the incorporators are present at the meeting or in writing waive
17 notice, then no notice shall be required for the first meeting.

18 Sec. 307. (1) A stock savings bank organized under this act
19 shall have capital in an amount as the commissioner considers
20 adequate on the basis of the population of the area to be served
21 and the anticipated nature of the stock savings bank's business
22 but not less than \$100,000.00.

23 (2) The section does not apply if the new stock savings bank
24 is organized under section 706 for the sole purpose of effecting
25 its consolidation or merger with an existing bank or association
26 having its principal office in the same city or village as the
27 new stock savings bank and if upon completion of the

1 consolidation or merger a bank holding company becomes the owner
2 of all of the outstanding voting shares of the consolidated
3 organization. This section does apply to the consolidated
4 organization.

5 (3) A stock savings bank shall not be authorized to commence
6 business until it has surplus of at least 20% of its capital.

7 (4) A mutual savings bank shall not be authorized to com-
8 mence business until an aggregate minimum dollar amount and
9 number of savings accounts shall be subscribed for and paid in
10 cash, as determined by the commissioner.

11 (5) After organization each savings bank shall maintain ade-
12 quate total capital for the conduct of its business and the pro-
13 tection of its depositors. The total capital of a savings bank
14 shall be analyzed and appraised in relation to the character of
15 its management, the liquidity of assets, history of earnings and
16 of the retention thereof, the potential volatility of the deposit
17 structure, and the savings bank's capacity to furnish the broad-
18 est service to the public.

19 (6) At all times a stock savings bank shall maintain surplus
20 in an amount which is equal to at least the amount of its capi-
21 tal, except as provided in subsection (3) as to the initial sur-
22 plus and except as provided in section 316 and shall not reduce
23 surplus without the approval of the commissioner.

24 Sec. 308. A stock savings bank may issue shares of common
25 stock and preferred stock that may be divided into classes and
26 the classes into series.

1 Sec. 309. The membership of a mutual savings bank shall
2 consist solely of every depositor or holder of a deposit account
3 issued by the savings bank.

4 Sec. 310. (1) A savings bank, with the approval of share-
5 holders owning $\frac{2}{3}$ of the stock of a stock savings bank who are
6 entitled to vote, or with the approval of $\frac{2}{3}$ of the members of a
7 mutual savings bank who are entitled to vote, may issue capital
8 notes, debentures, and any other instrument of indebtedness, with
9 or without warrants for preferred or common stock, convertible
10 and nonconvertible, subordinated on insolvency, liquidation, or
11 dissolution to all obligations except obligations to shareholders
12 or members, in such amounts and under such terms and conditions
13 as are approved by the commissioner on the basis of normal busi-
14 ness considerations.

15 (2) In connection with the issuance of convertible capital
16 notes, debentures, or any other instrument of indebtedness, the
17 commissioner may grant approval for the savings bank to reserve a
18 number of authorized and unissued shares of capital stock as
19 required for issuance in exchange for capital notes and debentures with respect to which conversion privileges exist.

21 (3) If capital notes, debentures, or any other instrument of
22 indebtedness are converted into shares of common or preferred
23 stock, a verified certificate executed by the president of the
24 savings bank stating the amount of the conversion, and any other
25 information with respect to the conversion as the commissioner
26 may require, shall be filed in the office of the commissioner.

1 (4) Outstanding capital notes, debentures, and any other
2 instrument of indebtedness issued under this section shall be
3 added to "capital" and "capital stock" as the terms are used in
4 sections 428, 429, and 432 to 434, for the purpose of computing
5 the limitations contained in those sections based on amounts of
6 capital and capital stock.

7 Sec. 311. Whenever a vote of the holders of shares of stock
8 is required by this act, those provisions shall apply only to the
9 voting stock of the savings bank, bank, out-of-state bank,
10 national bank, or association.

11 Sec. 312. Upon application and approval of the commission-
12 er, a mutual savings bank may amend its articles of incorporation
13 to authorize the issuance of stock and may issue stock.

14 Conversion shall be accomplished in accordance with section 716.

15 Sec. 313. (1) There shall be issued to every shareholder in
16 a savings bank, certificates of stock which shall be transferable
17 on the books of the savings bank in a manner as provided in the
18 bylaws or articles of incorporation. A transfer of stock shall
19 not be valid against the savings bank, except with the consent of
20 the board of directors, unless the registered holder of the stock
21 is liable as principal debtor, surety, or otherwise to the sav-
22 ings bank for any debt which is due and unpaid.

23 (2) If the registered holder of stock of a savings bank is
24 liable to it as principal debtor, surety, or otherwise for a debt
25 that is due and unpaid, the directors of the bank may sell a suf-
26 ficient amount of the stock of the delinquent shareholder in the
27 same manner and with the same effect as provided in section 501

1 in the case of an unpaid assessment on the stock of the savings
2 bank. This section does not prevent the savings bank from bring-
3 ing proceedings to recover the entire amount of the indebtedness
4 at any time before the sale or to recover the balance of the debt
5 and costs after the proceeds of sale have been applied against
6 the debt and costs or to recover the balance of the debt after
7 the cancellation of the stock.

8 (3) The rights of a savings bank in its stock under this
9 section shall be subject to any pledge, sale, or other transfer
10 of the stock that is made prior to the maturity of any indebted-
11 ness of the registered holder of the stock to the savings bank
12 and of that the savings bank has knowledge prior to the maturity,
13 whether or not the stock was transferred on the books of the sav-
14 ings bank. Any stock of a savings bank that is pledged, sold, or
15 otherwise transferred prior to the maturity of any indebtedness
16 of the registered holder of the stock to the savings bank and of
17 which pledge, sale, or other transfer the savings bank has knowl-
18 edge prior to the maturity, may be transferred on the books of
19 the savings bank after the maturity without the consent of the
20 board of directors of the savings bank.

21 (4) The rights of a savings bank in its stock under this
22 section, including the limitation on transferability if the reg-
23 istered holder is liable to the savings bank for any debt that is
24 due and unpaid, shall not be applicable with respect to any stock
25 duly listed on any stock exchange.

26 (5) Certificates issued shall state all of the following:

1 (a) The name and location of the savings bank.

2 (b) The name of the holder of record of the stock.

3 (c) The number, par value, and class of shares that the cer-
4 tificates represent.

5 (d) If the savings bank issues stock of more than 1 class,
6 the respective rights, preferences, privileges, voting rights,
7 powers, restrictions, limitations, and qualifications of each
8 class of stock issued shall be stated in full or in summary upon
9 the front or back of the certificates or be incorporated by a
10 reference to the articles of incorporation set forth on the front
11 of the certificates.

12 (e) If the stock is not listed on an exchange, that no
13 transfer shall be valid against the savings bank so long as the
14 registered holder is liable as principal debtor, surety, or oth-
15 erwise to the savings bank, except with the approval of the board
16 of directors or except as otherwise provided in this act.

17 (6) Every certificate issued shall be signed by the presi-
18 dent or vice president and cashier or assistant cashier of the
19 savings bank or by other officers as the bylaws of the savings
20 bank shall provide and shall be sealed with the seal of the sav-
21 ings bank.

22 (7) Notwithstanding any law, if a share certificate is
23 signed by a transfer agent or by a transfer agent and a regis-
24 trar, the signature of any officers of the savings bank required
25 on the stock or the seal of the savings bank may be made by
26 facsimile. If an officer who has signed a share certificate or
27 whose facsimile signature is used ceases to be an officer,

1 whether because of death, resignation, or otherwise, before the
2 certificate has been delivered by the savings bank, the certifi-
3 cate may be adopted by the savings bank and delivered as though
4 the person who signed it had not ceased to be an officer.

5 Sec. 314. (1) With the approval of the commissioner, and by
6 a vote of shareholders owning $2/3$ of each class of the stock
7 entitled to vote, a savings bank may increase its capital stock
8 to any sum approved by the commissioner, either by an increase in
9 the par value of the existing stock or by the issuance of new
10 stock, including preferred stock.

11 (2) An increase in capital is not valid until the whole
12 amount of the increase is paid in and notice has been transmitted
13 to the commissioner specifying the amount of the increase in cap-
14 ital stock and that it has been duly paid in as a part of the
15 capital of the savings bank.

16 (3) The certificate shall be conclusive evidence that the
17 stock has been duly and validly issued. In the case of the issu-
18 ance of new stock, in voting upon the increase of capital stock,
19 the shareholders entitled to vote shall have power, by the same
20 statutory majority, to fix the value of, and the price at which
21 the increase of the capital stock shall be subscribed and paid
22 for by the shareholders, but not less than par, as well as the
23 time and manner of the subscription and payment, and to authorize
24 the directors to sell the capital stock.

25 (4) Notwithstanding the provisions of this section, a sav-
26 ings bank, with the approval of the commissioner and by a vote of
27 shareholders owning $2/3$ of each class of the stock entitled to

1 vote, for the stated purpose of providing stock options for 1 or
2 more employees, may increase its capital stock in an aggregate
3 par value amount not to exceed at any 1 time 5% of the par value
4 of its then outstanding common capital stock. The additional
5 capital stock, when duly authorized, may be issued by the savings
6 bank from time to time for such purpose but for no other purpose,
7 as options are exercised and payment for the stock is received,
8 free from any preemptive rights to subscribe for stock.

9 Sec. 315. (1) By a vote of shareholders owning 2/3 of the
10 stock entitled to vote of the savings bank, a savings bank may
11 reduce its capital stock to an amount not less than that required
12 by this act to authorize the formation of the savings bank. The
13 reduction may be accomplished by a reduction in the par value of
14 the existing stock or by a reduction in the number of the shares
15 of the stock. A reduction shall not be made until the amount of
16 the proposed reduction has been reported to and approved by the
17 commissioner.

18 (2) The approval of the commissioner shall be based upon a
19 finding by him or her that the security of existing creditors of
20 the savings bank will not be impaired by the proposed reduction.
21 This section does not discharge a savings bank that has decreased
22 its capital stock from an obligation or demand that is due from
23 the savings bank.

24 (3) Retirement of preferred stock under the articles of
25 incorporation is not considered to be a reduction of capital
26 under this section.

1 (4) A shareholder is not entitled to a distribution of cash
2 or other assets by reason of a reduction of the common capital of
3 a savings bank unless the distribution has been approved by the
4 commissioner and by the affirmative vote of at least 2/3 of the
5 shares of each class of stock outstanding, voting as classes.

6 Sec. 316. (1) The board of directors of a savings bank may
7 declare and pay dividends on the common stock of the savings bank
8 subject to the following restrictions:

9 (a) A cash dividend or dividend in kind shall not be
10 declared or paid unless the savings bank will have a surplus
11 amounting to not less than 20% of its capital after the payment
12 of the dividend.

13 (b) A cash dividend or dividend in kind shall not be
14 declared by any savings bank except out of net profits then on
15 hand after deducting all bad debts. Unless the debts are well
16 secured and in process of collection or the debts constitute
17 claims against solvent estates in probate, debts due the savings
18 bank on which interest is past due and unpaid for a period of 6
19 months shall be considered bad debts under this section.

20 (c) A cash dividend or dividend in kind shall not be
21 declared or paid under the cumulative dividends on preferred
22 stock, if any, have been paid in full or preferred shareholders
23 have waived their right to receive dividends.

24 (d) If the surplus of a savings bank is less than the amount
25 of its capital, before the declaration of a cash dividend or div-
26 idend in kind, it shall transfer to surplus not less than 10% of
27 its net profits of the preceding half-year in the case of

1 quarterly or semiannual dividends, or not less than 10% of its
2 net profits of the preceding 2 consecutive half-year periods in
3 the case of annual dividends. For the purpose of this section,
4 an amount transferred to a reserve account for the retirement of
5 preferred stock of any bank out of its net profits for the peri-
6 ods is considered to be additions to its surplus, if upon the
7 retirement of the preferred stock the amounts credited into the
8 retirement reserve may then properly be carried to surplus. The
9 savings bank is obligated to credit to surplus the amounts trans-
10 ferred into the retirement reserve on account of the preferred
11 stock as the stock is retired.

12 (e) Notwithstanding the limitations of this section, a sav-
13 ings bank with the approval of the commissioner and by vote of
14 shareholders owning 2/3 of the stock entitled to vote may
15 increase its capital stock by declaration of a stock dividend on
16 the capital stock. After the increase the surplus of the bank
17 shall be at least equal to 20% of the capital stock as
18 increased. The increase shall not be effective until a certifi-
19 cate of the declaration of the dividend, signed by the president,
20 vice president, cashier, or assistant cashier of the savings
21 bank, has been transmitted to and appointed by the commissioner.

22 (2) A savings bank may pay dividends on its preferred stock
23 at a rate as may be applicable without regard to the limitations
24 of this section.

25 (3) A stock or mutual holding company that owns common or
26 preferred stock of a savings bank may waive its right to receive
27 dividends and any payment in lieu of dividends.

1 Sec. 317. (1) An annual meeting of the members of a mutual
2 savings bank shall be held at a time and place designated by or
3 in the manner provided in the bylaws.

4 (2) Special meetings of the members of a mutual savings bank
5 may be called at any time by the president or board of directors
6 or by the president, a vice president, or the secretary upon the
7 written request of members holding of record in the aggregate at
8 least 10% of the savings deposits of the savings bank. The writ-
9 ten request shall show the purposes of the meeting and shall be
10 delivered to the principal office of the mutual savings bank
11 addressed to the president.

12 (3) In the consideration of all questions requiring action
13 by the members of a mutual savings bank, each member shall be
14 entitled to cast 1 vote for each \$100.00, or fraction thereof, of
15 the withdrawal value of his or her deposit account. A member is
16 not entitled to cast more than 1,000 votes, and votes shall not
17 be cumulated for the election of directors.

18 (4) In order that a mutual savings bank may determine the
19 members entitled to notice of any meeting to vote, or entitled to
20 receive an distribution or to exercise any rights in respect of
21 any other lawful action, the board of directors of the savings
22 bank may fix, in advance, a record date that is not more than 9
23 months or less than 6 months prior to the date of the meeting or
24 more than 9 months prior to any other action.

25 Sec. 318. (1) Each savings bank shall keep correct and com-
26 plete books and records of accounts.

1 (2) Each mutual savings bank shall maintain membership
2 records which shall show the name and address of the member and
3 date of membership.

4 Sec. 319. (1) The annual meeting of the shareholders of
5 every stock savings bank shall be held at a time and place desig-
6 nated by or in the manner provided in the bylaws. Special meet-
7 ings of shareholders shall be called and held as provided in the
8 bylaws of the savings bank. At any meeting, each shareholder
9 entitled to vote shall be entitled to 1 vote for each share held
10 by him or her. A shareholder may vote at any meeting of the sav-
11 ings bank by written proxy.

12 (2) Persons holding shares of stock of a savings bank in a
13 fiduciary capacity are entitled to vote the shares so held,
14 unless the trust instrument contains a provision to the
15 contrary. Persons whose shares are pledged are entitled to vote
16 unless in the transfer by the pledgor on the books of the savings
17 bank he or she has expressly empowered the pledgee to vote the
18 shares, in which case only the pledgee or his or her proxy may
19 vote the shares.

20 (3) A shareholder shall not vote his or her stock in any
21 manner except in person or by proxy. This prohibition shall not
22 be construed to apply to any voting trust agreement of sharehold-
23 ers with respect to the voting of stock, which agreement has been
24 approved by the commissioner.

25 Sec. 320. The commissioner may call a meeting of the mem-
26 bers or shareholders of a savings bank for any purpose by giving
27 a notice of the time, place, and purposes of this meeting at

1 least 3 days prior to the meeting to the members or shareholders
2 either by personal service, registered mail sent to their last
3 known addresses as shown by the books of the savings bank, or by
4 publication at least once a week for 4 consecutive weeks prior to
5 the meeting.

6 Sec. 321. (1) A stock savings bank shall keep and maintain
7 a stock ledger in which shall be correctly entered the name and
8 address of each shareholder of the savings bank, the number of
9 shares held by each, the date when the shareholder acquired the
10 shares, and the name of the transferor. The board of directors
11 of a savings bank may designate any corporation authorized by law
12 to act as transfer agent or registrar of shares of corporations,
13 to act as transfer agent or transfer agent and registrar of the
14 shares of the savings bank, but a corporation shall not be desig-
15 nated to act in both capacities at the same time.

16 (2) Within 2 calendar weeks of a demand made by the commis-
17 sioner, a savings bank shall file with the commissioner a list
18 containing the name and address of each shareholder of the sav-
19 ings bank together with the number of shares held by each accord-
20 ing to its records as of the close of business on the date of
21 issuance of the demand. Within 2 calendar weeks of a demand made
22 for proper cause by any shareholder being the record owner of at
23 least 5% of the issued shares of the savings bank or on the
24 demand for proper cause of any person representing any group who
25 are the record owners of at least 5% of the issued shares of the
26 savings bank, the savings bank shall prepare and furnish the
27 requestor a list containing the name and address of each

1 shareholder of the savings bank together with the number of
2 shares held by each according to its records as of the close of
3 business on the date of receipt of the demand.

4 Sec. 322. (1) A savings bank shall be managed by a board of
5 not less than 5 nor more than 25 directors who shall be elected
6 in the first instance by the incorporators at a meeting held
7 before the savings bank is authorized to commence business and
8 afterwards at the annual meeting of the members or shareholders.
9 If for any reason an election is not held at the annual meeting,
10 then the election shall be held at any subsequent meeting called
11 for that purpose of which notice is given as provided in the
12 bylaws of the savings bank. The board of directors may fill a
13 vacancy that occurs in the board by death, resignation, or other-
14 wise for the current year. Subject to limitations as to numbers,
15 the shareholders may elect directors not to exceed 2 less than
16 the full board and the unfilled directorships shall be considered
17 as vacancies and filled by the board of directors. Directors
18 shall hold office until their successors are elected and have
19 qualified.

20 (2) The board of directors shall meet not less than 6 times
21 per year for the purpose of carrying out their duties under this
22 act. The directors shall designate the savings bank's chief
23 executive officer at the first board of directors meeting of each
24 fiscal year. The board shall keep and record minutes of each
25 meeting. The minutes shall be signed by the presiding officer
26 and the secretary of the meeting. A majority of the board of
27 directors constitutes a quorum for the transaction of business.

1 (3) The commissioner may call a meeting of the board of
2 directors of a savings bank by giving a notice of the time,
3 place, and purpose of the meeting at least 3 days prior to the
4 meeting to the directors either by personal service, registered
5 mail sent to their last known addresses as shown by the books of
6 the savings bank, or publication at least once in each week for 4
7 consecutive weeks prior to the meeting.

8 Sec. 323. Each director prior to taking office shall take
9 and subscribe an oath that he or she will diligently and honestly
10 perform his or her duties and will not knowingly violate, or
11 permit to be violated, any provisions of this act. The signed
12 oath shall be transmitted to the commissioner.

13 Sec. 324. (1) A savings bank may contract for or purchase
14 from a director, or from a firm of which the director is a
15 member, securities or other property when the purchase is made in
16 the regular course of business upon terms not less favorable to
17 the savings bank than those offered by others, or when the pur-
18 chase is authorized by a majority of the board of directors not
19 interested in the sale of the securities or property. If a
20 director, or firm of which the director is a member, acting for
21 or on behalf of others, sells securities or other property to a
22 savings bank, the commissioner may require a full disclosure to
23 be made on forms prescribed by the commissioner of all commis-
24 sions or other considerations received. Whenever a director or
25 firm sells securities or other property to the savings bank, the
26 commissioner may require full disclosure of all profits realized
27 from the sale.

1 (2) A savings bank may sell securities or other property to
2 a director, or to a firm of which the director is a member, in
3 the regular course of business on terms not more favorable to the
4 director or firm than those offered to others, when the sale is
5 authorized by a majority of the board of directors of a savings
6 bank. This section shall not be construed as authorizing a sav-
7 ings bank to purchase or sell securities or other property that
8 the savings bank is not otherwise authorized by law to purchase
9 or sell.

10 Sec. 325. (1) A director or an officer of a savings bank
11 shall discharge the duties of his or her position in good faith
12 and with that degree of diligence, care, and skill that an ordi-
13 narily prudent person would exercise under similar circumstances
14 in a like position.

15 (2) In discharging his or her duties, a director or an offi-
16 cer when acting in good faith may rely upon the opinion of legal
17 counsel for the savings bank, upon the report of an independent
18 appraiser selected with reasonable care by the board or by an
19 officer of the savings bank, or upon financial statements of the
20 savings bank represented to him or her to be correct by the pres-
21 ident or the officer of the savings bank having charge of its
22 books of account, or as stated in a written report by an indepen-
23 dent public or certified public accountant or firm of accountants
24 fairly to reflect the financial condition of the savings bank.

25 (3) The articles of incorporation of a savings bank may con-
26 tain a provision providing that a director is not personally
27 liable to the savings bank or its shareholders for monetary

1 damages for a breach of the director's fiduciary duty. The
2 provision does not eliminate or limit the liability of a director
3 for any of the following:

4 (a) A breach of the director's duty of loyalty to the sav-
5 ings bank or its shareholders.

6 (b) Acts or omissions not in good faith or that involve
7 intentional misconduct or knowing violation of law.

8 (c) A violation of section 223.

9 (d) A transaction from which the director derived an
10 improper personal benefit.

11 (4) An action against a director or officer for failure to
12 perform the duties imposed by this section shall be commenced
13 within 3 years after the cause of action has accrued, or within 2
14 years after the time when the cause of action is discovered, or
15 should reasonably have been discovered, by the complainant,
16 whichever occurs first.

17 Sec. 326. (1) A savings bank may indemnify a person who was
18 or is a party or is threatened to be made a party to a threat-
19 ened, pending, or completed action, suit, or proceeding, whether
20 civil, criminal, administrative, or investigative and whether
21 formal or informal, other than an action by or in the right of
22 the savings bank, or by reason of the fact that he or she is or
23 was a director, officer, employee, or agent of the savings bank
24 or is or was serving at the request of the savings bank as a
25 director, officer, partner, trustee, employee, or agent of
26 another financial institution, foreign or domestic corporation,
27 partnership, joint venture, trust, or other enterprise, whether

1 for profit or not, against expenses, including attorneys' fees,
2 judgments, penalties, fines, and amounts paid in settlement actu-
3 ally and reasonably incurred by him or her in connection with the
4 action, suit, or proceeding if the person acted in good faith and
5 in a manner he or she reasonably believed to be in and not
6 opposed to the best interests of the savings bank or its members
7 or shareholders, and in a criminal action or proceeding, if the
8 person had no reasonable cause to believe his or her conduct was
9 unlawful. The termination of an action, suit, or proceeding by
10 judgment, order, settlement, or conviction, or upon a plea of
11 nolo contendere or its equivalent, does not create a presumption
12 that the person did not act in good faith and in a manner that he
13 or she reasonably believed to be in and not opposed to the best
14 interests of the savings bank or its members or shareholders, and
15 in a criminal action or proceeding create a presumption that the
16 person had reasonable cause to believe that his or her conduct
17 was unlawful.

18 (2) A savings bank may indemnify a person who was or is a
19 party to or is threatened to be made a party to any threatened,
20 pending, or completed action or suit by or in the right of the
21 savings bank to procure a judgment in its favor or by reason of
22 the fact that he or she is or was a director, officer, employee,
23 or agent of the savings bank or is or was serving at the request
24 of the savings bank as a director, officer, partner, trustee,
25 employee, or agent of another financial institution, foreign or
26 domestic corporation, partnership, joint venture, trust, or other
27 enterprise, whether for profit or not, against expenses,

1 including actual and reasonable attorneys' fees and amounts paid
2 in settlement incurred by the person in connection with the
3 action or suit if the person acted in good faith and in a manner
4 the person reasonably believed to be in and not opposed to the
5 best interests of the savings bank or its shareholders.

6 Indemnification shall not be made for a claim, issue, or matter
7 in which the person has been found liable to the savings bank
8 unless the court in which the action or suit was brought has
9 determined upon application that the person is fairly and reason-
10 ably entitled to indemnification for the expenses that the court
11 considers proper.

12 Sec. 327. (1) To the extent that a director, officer,
13 employee, or agent of a savings bank has been successful on the
14 merits or otherwise in defense of an action, suit, or proceeding
15 described in section 326, or in defense of any claim, issue, or
16 matter in the action, suit, or proceeding, he or she shall be
17 indemnified against expenses, including actual and reasonable
18 attorneys' fees, incurred by him or her in connection with the
19 action, suit, or proceeding and an action, suit, or proceeding
20 brought to enforce the mandatory indemnification provided by this
21 act.

22 (2) An indemnification under section 326, unless ordered by
23 a court, shall be made by the savings bank only as authorized in
24 the specific case upon a determination that indemnification of
25 the director, officer, employee, or agent is proper in the cir-
26 cumstances because he or she has met the applicable standard of

1 conduct set forth in section 326. This determination shall be
2 made by any of the following:

3 (a) A majority vote of a quorum of the board consisting of
4 directors who were not parties to the action, suit, or
5 proceeding.

6 (b) If the quorum described in subdivision (a) is not
7 obtainable, then by a majority vote of a committee of directors
8 who are not parties to the action. The committee shall consist
9 of not less than 2 disinterested directors.

10 (c) Independent legal counsel in a written opinion.

11 (d) The shareholders.

12 (3) If a person is entitled to indemnification under section
13 326 for a portion of expenses, including attorneys' fees, judg-
14 ments, penalties, fines, and amounts paid in settlement, but not
15 for the total amount of the expenses, the savings bank may indem-
16 nify the person for the portion of the expenses, judgments, pen-
17 alties, fines, or amounts paid in settlement for which the person
18 is entitled to be indemnified.

19 Sec. 328. Expenses incurred in defending a civil or crimi-
20 nal action, suit, or proceeding described in section 326 may be
21 paid by the savings bank in advance of the final disposition of
22 the action, suit, or proceeding upon receipt of an undertaking by
23 or on behalf of the director, officer, employee, or agent to
24 repay the expenses if it is ultimately determined that the person
25 is not entitled to be indemnified by the savings bank. The
26 undertaking shall be by unlimited general obligation of the

1 person on whose behalf advances are made but need not be
2 secured.

3 Sec. 329. (1) The indemnification or advancement of
4 expenses provided by or granted under this act is not exclusive
5 of other rights to which a person seeking indemnification or
6 advancement of expenses may be entitled under the articles of
7 incorporation, the bylaws, or a contractual agreement. The total
8 amount of expenses advanced or indemnified from all sources com-
9 bined shall not exceed the amount of actual expenses incurred by
10 the person seeking indemnification or advancement of expenses.

11 (2) The right to indemnification provided for under this act
12 continues for a person who ceases to be a director, officer,
13 employee, or agent and shall inure to the benefit of the heirs,
14 executors, and administrators of the person.

15 Sec. 330. (1) A savings bank has the power to purchase and
16 maintain insurance, including insurance issued by an affiliated
17 insurer and insurance for which premiums may be adjusted retroac-
18 tively, in whole or in part, based upon claims experience, or
19 similar arrangements.

20 (2) A savings bank may also create a trust fund or other
21 form of funded arrangement on behalf of any person who is or was
22 a director, officer, employee, or agent of the savings bank or is
23 or was serving at the request of the savings bank as a director,
24 officer, partner, trustee, employee, or agent of another foreign
25 or domestic corporation, partnership, joint venture, trust, or
26 other enterprise, whether for profit or not, against any
27 liability asserted against him or her and incurred by him or her

1 in any capacity or arising out of his or her status in that
2 capacity, whether or not the savings bank has the power to indem-
3 nify him or her against the liability under sections 326 to 329.

4 Sec. 331. (1) With the approval of the commissioner and by
5 vote of a majority of members or voting shares of the savings
6 bank, a savings bank may amend its articles of incorporation in
7 any manner not inconsistent with this act, including sections 312
8 and 716.

9 (2) An amendment is effective when certified copies of the
10 amendment in a form as the commissioner may require signed by the
11 president or a vice president and the cashier or an assistant
12 cashier, have been submitted to the commissioner and have been
13 approved and filed by the commissioner as with the original arti-
14 cles of incorporation.

15 (3) Notwithstanding subsection (2), an amendment that pro-
16 vides solely for a change in the name of the savings bank is not
17 subject to the approval of the commissioner and shall be effec-
18 tive on the date it is filed with the commissioner or at a later
19 date specified in the amendment.

20 Sec. 332. (1) As used in sections 325 to 331:

21 (a) "Fines" shall include any excise taxes assessed on a
22 person with respect to an employee benefit plan.

23 (b) "Other enterprise" shall include employee benefit
24 plans.

25 (c) "Savings bank" includes all savings banks, banks,
26 out-of-state banks, national banks, and associations, absorbed in
27 a consolidation or merger and the consolidated savings bank, so

1 that a person who is or was a director, officer, employee, or
2 agent of the savings bank, bank, out-of-state bank, national
3 bank, or association or is or was serving at the request of the
4 savings bank, bank, out-of-state bank, national bank, or associa-
5 tion as a director, officer, partner, trustee, employee, or agent
6 of another savings bank, bank, out-of-state bank, national bank,
7 or association, foreign or domestic corporation, partnership,
8 joint venture, trust, or other enterprise, whether for profit or
9 not, shall hold the same position with respect to the consoli-
10 dated savings bank as he or she would if he or she had served the
11 consolidated savings bank in that capacity.

12 (d) "Serving at the request of the savings bank" shall
13 include any service as a director, officer, employee, or agent of
14 the savings bank which imposes duties on, or involves services
15 by, the director, officer, employee, or agent with respect to an
16 employee benefit plan, its participants or beneficiaries.

17 (2) A person who acted in good faith and in a manner he or
18 she reasonably believed to be in the interest of the participants
19 and beneficiaries of an employee benefit plan shall be considered
20 to have acted in a manner not opposed to the best interests of
21 the savings bank or its shareholders as referred to in section
22 326.

23 Sec. 333. (1) A solvent savings bank may go into liquida-
24 tion and be closed upon expiration of its corporate charter or by
25 the vote of a 2/3 majority of members or voting shares. In the
26 event of a termination, the last board of directors immediately
27 upon expiration of its corporate charter or adoption of the

1 resolution by the shareholders shall notify the commissioner of
2 the action by filing with him or her in quadruplicate a certifi-
3 cate of termination signed by a majority of the remaining members
4 of the board of directors. The certificate shall be in a form as
5 the commissioner may require.

6 (2) The members or shareholders shall designate 1 or more
7 persons to act as a liquidating agent or committee and the agent
8 or committee shall conduct the liquidation in accordance with the
9 law and under the supervision of the commissioner and the board
10 of directors.

11 (3) The agent or committee shall furnish to the savings bank
12 a bond satisfactory to the commissioner in form and amount.

13 (4) The liquidating agent or committee shall render to the
14 commissioner reports in a form and at such times as the commis-
15 sioner may require. The liquidating agent or committee shall
16 make periodic reports not less frequently than annually to the
17 members or shareholders.

18 (5) At any lawfully convened meeting, by vote of a majority
19 of members or voting shares, the members or shareholders may
20 remove the liquidating agent or committee and appoint a new agent
21 or a new committee.

22 (6) The commissioner may examine the affairs of a liquidat-
23 ing savings bank at any time for the purpose of determining that
24 the rights of the depositors and creditors are being properly
25 served. The expenses of the examination shall be paid by the
26 savings bank but shall not exceed \$100.00 per day for each

1 examiner and actual expenses incurred while making the
2 examination, to be credited to the general fund.

3 (7) The liquidating agent or committee shall publish a
4 notice once each week for 8 consecutive weeks informing deposi-
5 tors and creditors to present their claims against the savings
6 bank for payment. Proof of the publication shall be filed with
7 the commissioner by the liquidating agent or committee. The pro-
8 visions of this section with respect to publication of notice
9 shall not apply to a savings bank in voluntary liquidation which
10 disposes of sufficient assets to a state or national bank to pay
11 its depositors and creditors in full or if all of its liabilities
12 are assumed by the state or national bank.

13 (8) If the commissioner finds that a liquidation has been
14 completed in conformity to law and when all fees and charges have
15 been paid as required by law, he or she shall file 1 copy of the
16 certificate of termination in the office of the bureau and shall
17 certify and forward by mail 1 copy to the corporation division,
18 department of treasury, 1 copy to the county clerk in the county
19 in which the bank is located and 1 copy to the liquidating agent
20 or committee, and the existence of the savings bank shall cease,
21 subject to section 334.

22 Sec. 334. (1) A savings bank that commences voluntary
23 liquidation proceedings under section 333 shall continue to be a
24 body corporate for the further term of 3 years from the commence-
25 ment of the proceedings for the purpose of prosecuting and
26 defending actions for or against the savings bank and to enabling
27 it gradually to settle and close its affairs, to dispose of and

1 convey its property, and to divide its assets but not for the
2 purpose of continuing the business for which it was organized.

3 (2) With respect to an action, suit, or proceeding begun or
4 commenced by or against the savings bank prior to the commence-
5 ment of voluntary liquidation proceedings, and with respect to
6 any action, suit, or proceeding begun or commenced by the savings
7 bank within 3 years after the commencement of voluntary liquida-
8 tion proceedings, the savings bank shall be continued as a body
9 corporate beyond the 3-year period and until any judgments,
10 orders, or decrees are fully executed.

11 (3) If the number of directors of a savings bank that has
12 commenced voluntary liquidation proceedings is less than the full
13 number of directors required or authorized by statute or by the
14 bylaws of the savings bank for any reason, a majority of the
15 remaining surviving directors or the sole surviving director,
16 during the period of 3 years, shall possess the same powers in
17 acting for the savings bank under this section as the duly autho-
18 rized board of directors of the savings bank possessed before the
19 commencement of voluntary liquidation proceedings or during the
20 term of 3 years.

21 (4) A savings bank in liquidation under the laws of this
22 state may continue to be a body corporate for further terms upon
23 application to the commissioner. Extensions shall be from year
24 to year at the discretion of the commissioner until the liquida-
25 tion is completed.

26 Sec. 335. (1) A savings bank whose term will expire by
27 limitation, at any time preceding the expiration of such term, by

1 amendment of its articles, may extend its corporate term for a
2 limited period of time or in perpetuity.

3 (2) A savings bank whose term has expired, but which has not
4 been wound up or dissolved and which has nevertheless inadver-
5 tently continued its active business beyond such term, may renew
6 its corporate existence by amendment of its articles with the
7 consent of at least 4/5 of its members or the holders of at least
8 4/5 of its capital stock. The officers and directors de facto
9 shall do and perform all things required of officers and direc-
10 tors de jure as respects calling a special meeting of the share-
11 holders and submitting to them the question of renewing the cor-
12 porate existence.

13 (3) No savings bank de facto shall be permitted to renew its
14 corporate life unless the action is taken within 3 years after
15 its term has expired and renewal does not relieve the savings
16 bank from any penalties that may have accrued against it under
17 any law of this state.

18 (4) A savings bank whose term has been extended or renewed
19 shall be the same savings bank and have the same members, share-
20 holders, directors, and officers, enjoy all the rights, privi-
21 leges, immunities, and powers, and be subject to all the liabili-
22 ties that it respectively possessed and was subject to before the
23 extension or renewal of its existence.

24 Sec. 336. (1) With the approval of the commissioner based
25 upon an examination of either the buying or selling organization,
26 or both, and upon the affirmative vote of a majority of the
27 members of its board of directors and 2/3 of its members or the

1 holders of 2/3 of its stock entitled to vote, a savings bank may
2 do either or both of the following:

3 (a) Sell all or substantially all of its assets of every
4 kind, character, and description, including, but not limited to,
5 its goodwill and corporate franchises to another savings bank,
6 bank, out-of-state bank, national bank, or association.

7 (b) Purchase all or substantially all of the assets of every
8 kind, character, and description, including, but not limited to,
9 the goodwill and corporate franchises and assume the liabilities
10 of another savings bank, bank, out-of-state bank, national bank,
11 or association.

12 (2) The consideration for a purchase and sale under this
13 section may include shares of stock of the purchasing savings
14 bank, bank, out-of-state bank, national bank, or association. A
15 purchase and sale shall not be made to defeat or defraud any of
16 the creditors of the organizations.

17 (3) Certified copies of all shareholders' and directors'
18 proceedings under this section shall be filed with the commis-
19 sioner and contain in detail the particulars relating to the sale
20 and purchase, including a copy of the agreement of sale and
21 purchase.

22 Sec. 337. (1) A savings bank may sell 1 or more of its
23 branches, without selling any or substantially all of the savings
24 bank, to a bank, out-of-state bank, national bank, association,
25 or savings bank located in a state whose laws would permit a sav-
26 ings bank to purchase 1 or more branches in that state of the
27 purchasing depository institution.

1 (2) A savings bank may purchase 1 or more branches, without
2 purchasing all or substantially all of the depository institu-
3 tion, from a bank, out-of-state bank, national bank, association,
4 or savings bank.

5 (3) A savings bank that purchases 1 or more branches under
6 subsection (2) shall provide notice as required under section 417
7 before operating the purchased branch or branches.

8 Sec. 338. There shall be no limit upon the amount or share
9 of deposits held or controlled in this state by any savings bank
10 or holding company on a consolidated basis.

11 Sec. 339. (1) A compliance review committee shall evaluate
12 and seek to improve all of the following:

13 (a) Loan policies or underwriting standards.

14 (b) Asset quality.

15 (c) Financial reporting to federal or state government or
16 regulatory agencies.

17 (d) Compliance with federal or state statutory or regulatory
18 requirements.

19 (2) Except as provided in subsection (3), all of the follow-
20 ing apply to a compliance review committee:

21 (a) Compliance review documents are confidential and are not
22 subject to discovery or admissible in evidence in a civil
23 action.

24 (b) Individuals serving on a compliance review committee or
25 acting under the direction of a compliance review committee shall
26 not be required to testify in a civil action about the contents
27 of a compliance review document or conclusions of a compliance

1 review committee or about the actions taken by a compliance
2 review committee.

3 (c) Compliance review documents delivered to individuals who
4 are not members of the compliance review committee, or to other
5 entities including state, federal, or foreign governmental or
6 regulatory agencies, shall remain confidential and are not dis-
7 coverable or admissible in evidence in a civil action.

8 (3) This section does not apply to any civil action initi-
9 ated by a federal or state regulatory agency.

10 (4) This section shall not be construed to limit the testi-
11 mony that can be required about matters other than the contents
12 of a compliance review document or conclusions or actions of a
13 compliance review committee. This section does not limit the
14 discovery or admissibility in a civil action of any documents
15 other than compliance review documents.

16 CHAPTER 4

17 POWERS

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

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

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

5 (c) To make contracts.

6 (d) To sue and be sued, complain, and defend in its corpo-
7 rate name as fully as a natural person.

8 (e) To elect or appoint directors who shall appoint from
9 their members a president who shall perform duties as may be des-
10 ignated by the board, and who shall serve as the chairperson of
11 the board, unless the board designates another director to be
12 chairperson in lieu of the president. The board may appoint
13 officers as the board considers necessary, who need not be mem-
14 bers of the board, define their duties, dismiss at pleasure, and
15 appoint other officers to fill vacancies.

16 (f) To make, alter, amend, and repeal bylaws not inconsis-
17 tent with its articles or with law for the administration and
18 regulation of the affairs of the savings bank.

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

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

24 (i) To make contributions and donations for the public wel-
25 fare or for religious, charitable, scientific, or educational
26 purposes, and, in connection with the contributions and
27 donations, establish and operate charitable trusts.

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

6 (k) To act as agent of the United States or of an instrumen-
7 tality or agency of the United States, or of a state, for the
8 sale or issue of bonds, notes, or other obligations of the United
9 States, or of a state and to act as a fiscal agent of the United
10 States, a state, or as a treasury tax and loan depository and
11 perform all reasonable duties in those capacities as may be pre-
12 scribed or required by regulation of the secretary of the trea-
13 sury of the United States, or of the treasurer of a state, and to
14 take other action as may be necessary or proper to enable the
15 savings bank to act under this subdivision.

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

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

24 (n) To become a member and buy and hold stock of the federal
25 home loan bank as defined in section 2 of the federal home loan
26 bank act, chapter 522, 47 Stat. 725, and to exercise those powers

1 conferred upon a federal home loan bank member by the federal
2 home loan bank that are consistent with this act.

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

12 (p) To conduct its business through subsidiaries, at the
13 same location or a location different from the savings bank. A
14 subsidiary may engage in all activities and make all investments
15 permitted for a savings bank by this act or by rule, order, or
16 declaratory ruling of the commissioner, except that a subsidiary
17 may not accept deposits. In addition, a subsidiary may engage in
18 activities specifically permitted for subsidiaries by rule,
19 order, or declaratory ruling of the commissioner. Except upon
20 written approval of the commissioner, a savings bank shall not be
21 a general partner in a subsidiary.

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

1 or in part as provided under Act No. 218 of the Public Acts of
2 1956.

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

6 (s) Notwithstanding any provision of this act, to acquire
7 and hold property, or a security interest in property, as protec-
8 tion against loss on an evidence of indebtedness, on an agreement
9 for the payment of money, or on an investment security previously
10 acquired lawfully and in good faith, subject to disposition of
11 property within a period of 60 months after the date of acquisi-
12 tion, or a longer period as the commissioner may approve.

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

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

17 (v) To make, sell, purchase, arrange, participate in, invest
18 in, or otherwise deal in loans or extensions of credit for con-
19 sumer purposes, which are unsecured or secured by liens or inter-
20 ests in personal property or real estate.

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

26 (x) To borrow money from any source, assign or pledge any of
27 its assets or properties as collateral security subject to

1 limitations stated in section 508, and issue its notes, bonds,
2 and other obligations.

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

5 (z) To conduct business using electronic information pro-
6 cessing, including the electronic processing and execution of
7 transactions between a savings bank and its customers and a sav-
8 ings bank and other depository institutions.

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

12 (bb) To contract with a person or entity to act as an agent
13 in an agency office, as permitted by section 417(7).

14 (cc) To enter into principal and agent relationships with
15 affiliated depository institutions. A savings bank or an affili-
16 ated depository institution in its capacity as an agent under
17 this subsection may do all of the following:

18 (i) Receive deposits.

19 (ii) Permit withdrawals of deposits.

20 (iii) Renew time deposits.

21 (iv) Close loans.

22 (v) Service loans.

23 (vi) Receive loan payments.

24 (vii) Engage in any activity specifically authorized by this
25 act or by order or declaratory ruling of the commissioner.

26 (dd) To sell money orders, travel checks, cashier's checks,
27 and similar instruments drawn by it on its accounts or as agent

1 for any organization empowered to sell the instruments through
2 agents within this state.

3 (ee) To guarantee the signatures of customers and others.

4 (ff) To operate a safe and collateral deposit business under
5 section 428.

6 (gg) To engage directly in the real estate brokerage busi-
7 ness as provided under the occupational code, Act No. 299 of the
8 Public Acts of 1980, being sections 339.2501 to 339.2518 of the
9 Michigan Compiled Laws, and section 409.

10 (hh) To own in whole or in part a real estate brokerage
11 business as provided under Act No. 299 of the Public Acts of 1980
12 and section 409.

13 (ii) To issue securities, including any nonwithdrawable
14 account, note, stock, treasury stock, bond, debenture, evidence
15 of indebtedness, or certificate of interest or participation in
16 any profit-sharing agreement, collateral-trust certificate, pre-
17 organization certificate or subscription, transferable share,
18 investment contract, voting-trust certificate, or, in general,
19 any interest or instrument commonly known as a security, or any
20 certificate of interest or participation in, temporary or interim
21 certificate for, receipt for, guarantee of, or warrant or right
22 to subscribe to or purchase, any of the foregoing, except that a
23 security shall not include an account or deposit insured by the
24 federal deposit insurance corporation.

25 (jj) To establish 1 or more finance subsidiaries whose sole
26 purpose is to issue securities as described in subdivision (ii)

1 and to remit the net proceeds of such securities' issuances to
2 the savings bank.

3 (2) The commissioner may promulgate rules under section 208,
4 or issue declaratory rulings, or issue orders, permitting savings
5 banks to exercise powers not authorized by this act. It is
6 intended that this subsection shall vest in the commissioner the
7 discretion and authority to authorize savings banks to exercise
8 all powers appropriate and necessary to compete with other depos-
9 itory financial institutions and other providers of financial
10 services. In the exercise of the discretion permitted by this
11 subsection, the commissioner shall consider the ability of sav-
12 ings banks to exercise any additional power in a safe and sound
13 manner, the authority of state and national banks, associations,
14 and state and federal credit unions, operating under state or
15 federal law or regulation, the powers of other competing entities
16 providing financial services in this state, and any specific lim-
17 itations on powers contained in this act or in any other state
18 law. On at least a quarterly basis, the commissioner shall give
19 notice to all savings banks of rules promulgated, or declaratory
20 rulings or determinations, or orders, issued under this
21 subsection.

22 Sec. 402. A savings bank that makes a loan the proceeds of
23 which are used or may be used by the borrower to finance the pur-
24 chase, design, manufacture, construction, repair, modification,
25 or improvement of real property shall not be liable for any
26 defect in the real property purchased, designed, manufactured,
27 constructed, repaired, modified, or improved or for any loss or

1 damage resulting from the failure of the borrower or any agent or
2 other person employed by the borrower to use due care in the
3 examination, design, manufacture, construction, repair, modifica-
4 tion, or improvement of the real property.

5 Sec. 403. Except as otherwise provided by this act, with
6 the approval of the commissioner, a savings bank may purchase the
7 shares of stock of any corporation whose primary purpose is to
8 provide capital to banks largely owned or controlled by individu-
9 als classified as racial minorities. All such investments in the
10 aggregate shall not exceed an amount equal to 2% of the capital
11 and surplus of the savings bank.

12 Sec. 404. Except as otherwise provided by this act or in
13 its articles of incorporation, a savings bank may purchase the
14 shares of stock of, or make loans to, the Michigan business
15 development corporation.

16 Sec. 405. (1) Except as otherwise provided by this act and
17 in its articles of incorporation, a savings bank may make venture
18 capital investments, or may invest in equity securities of a pro-
19 fessional investor a majority of whose assets consist of venture
20 capital investments.

21 (2) If a savings bank makes a venture capital investment
22 under subsection (1), an officer or director of the savings bank
23 shall not hold an equity position in the financed company, and
24 the savings bank shall not invest more than 50% of the company.

25 (3) A savings bank's investment under subsection (1) in any
26 1 entity shall not exceed an amount equal to 5% of the capital
27 and surplus of the savings bank, and all investments under

1 subsection (1) shall not exceed an amount equal to 10% of the
2 capital and surplus of the savings bank.

3 (4) This section does not limit the authority of a savings
4 bank to exercise lending or investment powers which are otherwise
5 authorized by law.

6 (5) As used in this section:

7 (a) "Professional investor" means an investment company reg-
8 istered under the investment company act of 1940, 15 U.S.C. 80a-1
9 to 80a-64, a pension or profit sharing trust or other institu-
10 tional buyer, or a person, partnership, or other entity a major-
11 ity of whose resources are dedicated to investing in equity or
12 debt securities and whose net worth exceeds \$500,000.00 prior to
13 the savings bank's investment.

14 (b) "Venture capital" means equity financing that is pro-
15 vided for starting up or expanding a company, or related purposes
16 such as financing for seed capital, research and development,
17 introduction of a product or process into the marketplace, or
18 similar needs requiring risk capital. A venture capital invest-
19 ment shall not include the purchase of a share of stock in a com-
20 pany if, on the date on which the share of stock is purchased,
21 the company has securities outstanding that are registered on a
22 national securities exchange under section 12(b) of the securi-
23 ties exchange act of 1934, 15 U.S.C. 78(1), that are registered
24 or required to be registered under section 12(g) of that act, or
25 which would be required to be so registered except for the exemp-
26 tions in section 12(g)(2) of that act.

1 Sec. 406. (1) As used in this section:

2 (a) "Investment security" means a marketable obligation in
3 the form of a bond, note, or debenture, commonly regarded as an
4 investment security and which is salable under ordinary circum-
5 stances with reasonable promptness at a fair value.

6 (b) "Secretary" means the secretary of the United States
7 department of housing and urban development.

8 (2) A savings bank may purchase investment securities for
9 its own account when in its prudent banking judgment, which may
10 be based in part upon estimates that it believes to be reliable,
11 it determines that there is adequate evidence that the obligor
12 will be able to perform all it undertakes to perform in connec-
13 tion with the securities, including all debt service require-
14 ments, and that the securities may be sold with reasonable
15 promptness at a price which corresponds to their fair value. The
16 purchase of investment securities in which the investment charac-
17 teristics are considered distinctly or predominantly speculative,
18 or the purchase of investment securities that are in default,
19 whether as to principal or interest, is prohibited.

20 (3) A savings bank may purchase 1 or more of the following:

21 (a) Obligations of the United States, or obligations that
22 are guaranteed fully as to principal and interest by the United
23 States, or any general obligations of any state or of any politi-
24 cal subdivision of a state.

25 (b) Obligations issued under authority of the federal farm
26 loan act, 12 U.S.C. 2001.

1 (c) Obligations issued by banks for cooperatives.

2 (d) Obligations issued by the federal home loan banks.

3 (e) Obligations insured by the secretary under title XI of
4 the national housing act, 12 U.S.C. 1101.

5 (f) Obligations insured by the secretary under 12
6 U.S.C. 1713, if the debentures to be issued in payment of the
7 insured obligations are guaranteed as to principal and interest
8 by the United States.

9 (g) Obligations, participations, or other instruments of or
10 issued by the federal national mortgage association or the gov-
11 ernment national mortgage association.

12 (h) Mortgages, obligations, or other securities that are or
13 ever have been sold by the federal home loan mortgage corporation
14 pursuant to 12 U.S.C. 1454 or 1455.

15 (i) Obligations of a public housing agency, as defined in
16 the United States housing act of 1937, 42 U.S.C. 1401, secured by
17 any of the following:

18 (i) An agreement between the public housing agency and the
19 secretary in which the public housing agency agrees to borrow
20 from the secretary, and the secretary agrees to lend to the
21 public housing agency, before the maturity of the obligations,
22 money in an amount which together with any other money irrevoca-
23 bly committed to the payment of interest on such obligations will
24 suffice to pay the principal of the obligations with interest to
25 maturity on the obligations which money under the terms of the
26 agreement is required to be used for the purpose of paying the

1 principal of and the interest on the obligations at their
2 maturity.

3 (ii) A pledge of annual contributions under an annual con-
4 tributions contract between the public housing agency and the
5 secretary if the contract contains the covenant by the secretary
6 that is authorized by 42 U.S.C. 1437d(g), and if the maximum sum
7 and the maximum period specified in the contract under 42
8 U.S.C. 1437d(g) is not less than the annual amount and the period
9 for payment that are requisite to provide for the payment when
10 due of all installments of principal and interest on such
11 obligations.

12 (iii) A pledge of both annual contributions under an annual
13 contributions contract containing the covenant by the secretary
14 that is authorized by 42 U.S.C. 1437d(g) and a loan under an
15 agreement between the local public housing agency and the secre-
16 tary in which the public housing agency agrees to borrow from the
17 secretary and the secretary agrees to lend to the public housing
18 agency, prior to the maturity of the obligations involved, money
19 in an amount which, together with any other money irrevocably
20 committed under the annual contributions contract to the payment
21 of principal and interest on the obligations, will suffice to
22 provide for the payment when due of all installments of principal
23 and interest on the obligations, which money under the terms of
24 the agreement is required to be used for the purpose of paying
25 the principal and interest on the obligations at their maturity.

26 (j) Obligations of a local public agency, as defined in 42
27 U.S.C. 1460(h) secured by an agreement between the local public

1 agency and the secretary in which the local public agency agrees
2 to borrow from the secretary and the secretary agrees to lend to
3 the local public agency, money in an aggregate amount which,
4 together with any other money irrevocably committed to the pay-
5 ment of interest on the obligations, will suffice to pay, when
6 due, the interest on all installments, including the final
7 installment, of the principal of the obligations, which money
8 under the terms of the agreement is required to be used for the
9 payments.

10 (k) Shares of stock of a small business investment company
11 doing business in this state and licensed or established under
12 the federal small business investment act of 1958, Public Law
13 85-699, 72 Stat. 689, and purchase of shares of stock of a busi-
14 ness and industrial development corporation established under the
15 Michigan BIDCO act, Act No. 89 of the Public Acts of 1986, being
16 sections 487.1101 to 487.2001 of the Michigan Compiled Laws.

17 (l) Capital stock, bonds, debentures, or other obligations
18 of a corporation created under the authority granted by section
19 414 but subject to the limitations and conditions of those
20 sections.

21 (m) Stock of the student loan marketing association estab-
22 lished under section 439 of part B of title IV of the higher edu-
23 cation act of 1965, Public Law 89-329, 20 U.S.C. 1087-2.

24 (n) Open accounts, with or without recourse against the
25 seller of an open account, which accounts need not represent an
26 evidence of indebtedness and including open accounts in
27 connection with export transactions, when the accounts are

1 protected by insurance such as that provided by the foreign
2 credit insurance association and the export-import bank.

3 (o) Shares of stock issued by an agricultural credit corpo-
4 ration or a corporation organized solely for the purpose of
5 making loans to farmers and ranchers for agricultural purposes,
6 including the breeding, raising, fattening, or marketing of
7 livestock. Unless a bank owns at least 80% of the stock of the
8 corporation, the amount invested by the savings bank at any 1
9 time in the stock of the corporation shall not exceed 20% of the
10 capital and surplus of the savings bank.

11 (p) Any class of voting securities of a bank organized and
12 chartered under section 303 or the national bank act, chapter
13 106, 13 Stat. 99, and engaged exclusively in providing services
14 to depository institutions or their officers, directors, and
15 employees, or a bank holding company that owns or controls a bank
16 organized and chartered under section 303 or the national bank
17 act, if the stock of a bank holding company is owned exclusively,
18 except to the extent directors' qualifying shares are required by
19 law, by depository institutions, and if all subsidiaries of the
20 company engage exclusively in serving depository institutions or
21 their officers, directors, and employees. The amount of securi-
22 ties of a bank or bank holding company held by an investing sav-
23 ings bank shall not exceed 20% of the capital and surplus of the
24 investing savings bank.

25 (q) Securities and incorporations or partnerships, limited
26 partnerships, or joint ventures authorized by title IX of the
27 housing and urban development act of 1968.

1 (r) Capital stock or accounts of an interim state savings
2 bank that has been chartered solely for the purpose of becoming a
3 constituent in a merger that will result in the acquisition of a
4 stock association by a holding company or by a company that will,
5 after the acquisition, be a holding company.

6 (s) Tax-exempt bonds of state governments or political sub-
7 divisions thereof used to finance residential real property for
8 family units and issued under section 103 of the internal revenue
9 code, and tax-exempt obligations of public housing agencies used
10 to finance housing projects with rental assistance subsidies and
11 issued under section 11(b) of the United States housing act of
12 1937.

13 (t) Investments in the capital of a small business invest-
14 ment company or minority enterprise small business investment
15 company licensed under section 302(d) of the small business
16 investment act of 1958 by the U.S. small business administration
17 to invest in small businesses engaged exclusively in the activi-
18 ties listed in section 410.

19 (u) Voting and nonvoting investments in corporations, part-
20 nerships as a limited partner, limited liability companies, and
21 limited liability partnerships provided such other corporation or
22 partnership or limited liability company engages only in activi-
23 ties permissible for a savings bank.

24 (v) Financial options and other financial instruments to
25 manage a savings bank's interest rate risks.

26 (w) Investments designed primarily to promote the public
27 welfare, including the welfare of low -and moderate-income

1 individuals or families; which investments may be made directly
2 or by purchasing interests in any entity primarily engaged in
3 making such investments.

4 (x) Shares or certificates of an open-end management invest-
5 ment company registered with the securities and exchange commis-
6 sion under the investment company act of 1940, title I of chapter
7 686, 54 Stat. 789, 15 U.S.C., 80a-1 to 80a-64 while the portfolio
8 of the company is restricted by its investment policy, changeable
9 only by vote of the shareholders, to investments permitted by
10 order of the commissioner.

11 (y) Stock, bonds, or other obligations of a business and
12 industrial development corporation licensed and supervised by
13 this state.

14 (z) Time deposits in a federal home loan bank, the bank for
15 savings and loan associations, or the savings bank's trust
16 company.

17 (aa) Obligations of a federal home loan bank, the federal
18 national mortgage association, the government national mortgage
19 association, a bank for cooperatives, including the national bank
20 for cooperatives or the united bank for cooperatives, a farm
21 credit bank, the Tennessee valley authority, the export-import
22 bank of the United States, the commodity credit corporation, the
23 federal financing bank, the student loan marketing association,
24 the federal home loan mortgage corporation, or the national
25 credit union administration.

26 (bb) Investments in savings accounts of an insured
27 depository institution.

1 (cc) Investments in bankers' acceptances of an insured
2 financial institution.

3 (dd) Obligations of or obligations issued by a state, terri-
4 tory, or possession of the United States or political subdivision
5 thereof, including any agency, corporation, or instrumentality of
6 a state, territory, possession, or political subdivision.

7 (ee) Promissory notes issued to and made to the order of an
8 insured financial institution by the savings association insur-
9 ance fund or the bank insurance fund.

10 (ff) Corporate debt obligations and commercial paper denomi-
11 nated in dollars.

12 (gg) Share capital and capital reserve of the inter-American
13 savings and loan bank.

14 (hh) Stock or bonds of a federal home loan bank or in the
15 stock of the federal national mortgage association.

16 (ii) Securities that are or have been sold by the federal
17 home loan mortgage corporation.

18 (jj) Participations, securities, or other instruments issued
19 by, or fully guaranteed as to principal and interest by, the fed-
20 eral national mortgage association, the student loan marketing
21 association, the government national mortgage association, or any
22 agency of the United States.

23 (4) With the approval of the commissioner, a savings bank
24 may invest in other categories of assets that the commissioner
25 determines are consistent with this act. The total amount of
26 investment securities of any obligor or maker, held by a
27 savings bank for its own account under this subsection, shall not

1 exceed at any time 20% of its capital, surplus, and subordinated
2 notes and debentures. This limitation shall not require a sav-
3 ings bank to dispose of any securities lawfully held by it on the
4 effective date of this act. The statutory limitation on the
5 amount of investment securities of any 1 obligor or maker which
6 may be held by a savings bank shall be determined on the basis of
7 the par or face value of the securities. For purposes of this
8 section, capital notes or debentures shall not include capital
9 notes or debentures issued to or held by the federal deposit
10 insurance corporation.

11 (5) A savings bank shall maintain in its credit files infor-
12 mation adequate to demonstrate that it has exercised prudence in
13 making the determinations and carrying out the transactions
14 described in subsection (2).

15 (6) Subject to the exercise of prudent banking judgment, a
16 savings bank may engage in the underwriting of any of the follow-
17 ing investment securities:

18 (a) Obligations of the United States.

19 (b) General obligations of any state of the United States or
20 a political subdivision thereof.

21 (c) Obligatins of the international bank for reconstruction
22 and development.

23 (d) Obligations of the inter-American development bank.

24 (e) Obligatins of the Asian development bank.

25 (f) Obligations of the Tennessee valley authority.

1 (g) Obligations issued by any state or political subdivision
2 or agency of a state or political subdivision for housing,
3 university, or dormitory purposes.

4 (h) Obligations of the African development bank.

5 (i) Other obligations listed in subsection (3).

6 (7) For the purposes of underwriting under subsection (6),
7 prudence shall require a consideration of the resources and obli-
8 gations of the obligor and a determination that the obligor pos-
9 sesses resources sufficient to provide for all required payments
10 in connection with the obligation.

11 (8) If a savings bank purchases investment securities con-
12 vertible into stock or with stock purchase warrants attached,
13 entries shall be made by the savings bank at the time of purchase
14 to write down the cost of the securities to an amount that repre-
15 sents the investment value of the securities considered indepen-
16 dently of the conversion feature or attached stock purchase
17 warrants. Purchase of investment securities convertible into
18 stock at the option of the issuer is prohibited.

19 (9) The restrictions and limitations of this section do not
20 apply to securities acquired through foreclosure on collateral,
21 or acquired in good faith by way of compromise of a doubtful
22 claim or to avoid a loss in connection with a debt previously
23 contracted.

24 (10) A savings bank may purchase, sell, underwrite, and hold
25 investment securities that are obligations in the form of bonds,
26 notes, or debentures of the type and to the extent permitted from
27 time to time by order or declaratory ruling of the commissioner.

1 (11) This section does not limit the investment authority of
2 a savings bank granted by any other section of this act.

3 Sec. 407. A savings bank may perform 1 or more of the fol-
4 lowing services, and any other services permitted by order or
5 declaratory ruling of the commissioner:

6 (a) Provide life, health, and casualty insurance for offi-
7 cers and employees of financial institutions and operate bonus
8 plans and retirement benefit plans for those officers and
9 employees.

10 (b) Service mortgages and land contracts.

11 (c) Originate and service mortgage loans, mortgages, and
12 land contracts, on behalf of financial institutions, corpora-
13 tions, and state or federal agencies or instrumentalities.

14 (d) Act as escrow agent or depository for other escrow
15 agents or fiduciaries.

16 (e) Credit analysis, appraising, construction loan inspec-
17 tion, and abstracting.

18 (f) Research, studies, and surveys.

19 (g) Develop and operate storage facilities for microfilm or
20 other duplicate records.

21 (h) Advertising, brokerage, and other services to procure
22 and retain both deposits and loans, but not pooling deposits or
23 soliciting or promoting pooled deposits.

24 (i) Liquidity management, investment, advisory, and consult-
25 ing services.

26 (j) Establish, own, lease, operate, or maintain electronic
27 funds transfer terminals.

1 (k) Purchase office supplies, furniture, and equipment.

2 (l) Prepare local, state, and federal tax returns for indi-
3 viduals or organizations that are not corporations operated for
4 profit.

5 (m) Data processing services.

6 (n) Subject to applicable state or federal law, provide bro-
7 kerage services for the offer, sale, or purchase of a security or
8 commodity contract.

9 Sec. 408. A savings bank may invest not more than 10% of
10 its total assets in the acquisition and development of real
11 estate for sale, or for the improvement of real estate by con-
12 struction or rehabilitation of residential or commercial units
13 for sale or rental purposes. For purposes of this section, a
14 savings bank may purchase, take, lease as lessee, or otherwise
15 acquire, and own, hold, use, sell, lease as lessor, pledge, grant
16 a security interest in, convey, or otherwise dispose of real
17 estate. The investment by a savings bank may be direct, or indi-
18 rect as a stockholder in a corporation, member of a limited
19 liability company, or limited partner in a partnership or limited
20 liability partnership.

21 Sec. 409. (1) A savings bank that engages directly in the
22 real estate brokerage business or owns in whole or in part a real
23 estate brokerage business shall provide written notice of its
24 licensure as a real estate broker or its ownership of a real
25 estate brokerage business to the commissioner within 10 days of
26 licensure or ownership. The notice required by this subsection

1 shall include the name and business address of the real estate
2 brokerage.

3 (2) A savings bank that engages directly in the real estate
4 brokerage business or owns in whole or in part a real estate bro-
5 kerage business shall not do any of the following:

6 (a) Impose a requirement, verbally or in writing, that a
7 borrower contract for or enter into any other arrangement for
8 real estate brokerage services with a particular real estate
9 broker.

10 (b) Impose a requirement, verbally or in writing, that a
11 condition of approving a loan is that borrower contract or enter
12 into any other arrangement for real estate brokerage services.

13 (c) Impose a requirement, verbally or in writing, that a
14 real estate brokerage customer make application for a loan or any
15 other service or services of a particular savings bank or any of
16 its subsidiaries, agencies, or service entities.

17 (d) Impose a requirement, verbally or in writing, that a
18 condition of providing real estate brokerage services is that the
19 customer make an application for a loan or any other arrangement
20 for other services of the savings bank or any of its subsidi-
21 aries, agencies, or services entities.

22 (e) Any other activity prohibited by order or declaratory
23 ruling of the commissioner.

24 (3) If the commissioner finds that a savings bank has vio-
25 lated this section, the commissioner may issue an order requiring
26 the savings bank to cease and desist the activity that violates
27 this section. If the commissioner additionally finds that the

1 violation was knowingly committed, the commissioner may order any
2 of the following:

3 (a) A civil fine of not more than \$500.00 for each violation
4 but not to exceed an aggregate civil penalty of \$10,000.00.

5 (b) That restitution be made to a customer for actual dam-
6 ages directly attributable to the acts that are found to be a
7 violation of this section.

8 (4) An action under this section shall not be brought more
9 than 3 years after the occurrence of the violation that is the
10 basis of the action.

11 Sec. 410. (1) Upon 30 days' notice to the commissioner, a
12 savings bank may invest in service entities that engage in activ-
13 ities described in subsections (4) and (5). The maximum aggre-
14 gate investment by a savings bank in service entities shall be
15 the lesser of 5% of the savings bank's total assets or 75% of its
16 capital and surplus, if it is a stock savings bank, or the lesser
17 of 5% of the savings bank's total assets or 75% of its total cap-
18 ital, if it is a mutual savings bank.

19 (2) Except upon written approval of the commissioner, a sav-
20 ings bank shall not invest as a general partner in a service
21 entity. For purposes of this section, investment in a service
22 entity shall include loans by a savings bank or its subsidiary to
23 a service entity.

24 (3) Subject to the investment limit in this subsection, a
25 savings bank or its subsidiary that has made an initial invest-
26 ment in a service entity may make additional investments in that
27 service entity without notice to the commissioner.

1 (4) A service entity that directly, or through its wholly
2 owned subsidiary, engages in any of the following activities or
3 investments is a service entity in which a savings bank may
4 invest:

5 (a) Services primarily for financial institutions that
6 include any of the following:

7 (i) Credit analysis, appraising, construction loan inspec-
8 tion, and abstracting.

9 (ii) Developing and administering personnel benefit pro-
10 grams, including life insurance, health insurance, and pension or
11 retirement plans.

12 (iii) Research, studies, and surveys.

13 (iv) Developing and operating storage facilities for micro-
14 film or other duplicate records.

15 (v) Advertising, brokerage, and other services to procure
16 and retain both savings accounts and loans, but not pooling sav-
17 ings accounts or soliciting or promoting pooled savings
18 accounts.

19 (vi) Serving as escrow agent, including executing and deliv-
20 ering conveyances, reconveyances, and transfers of title.

21 (vii) Providing liquidity management, investment, advisory,
22 and consulting services.

23 (viii) Providing clerical, accounting, and internal auditing
24 services.

25 (ix) Establishing, owning, leasing, operating, or maintain-
26 ing remote service units.

- 1 (x) Purchasing office supplies, furniture, and equipment.
- 2 (b) Real estate services that include any of the following:
- 3 (i) Maintaining and managing real estate, including real
- 4 estate used for agricultural purposes.
- 5 (ii) Managing owners' associations for condominium, coopera-
- 6 tive, planned unit development, or other rental real estate
- 7 projects.
- 8 (iii) Providing home ownership and financial counseling.
- 9 (iv) Providing relocation services.
- 10 (v) Providing real estate brokerage services for property
- 11 owned by a person that owns an interest in the service entity,
- 12 the service entity or its wholly owned subsidiary, or a joint
- 13 venture in which the service entity or its wholly owned subsid-
- 14 iary participates.
- 15 (vi) Acquiring real estate for development or subdivision,
- 16 for construction of improvements, for resale or leasing to others
- 17 for construction, or for use as manufactured home sites.
- 18 (vii) Acquiring improved real estate or manufactured homes
- 19 to be held for rental or resale, or for remodeling, renovating,
- 20 or demolishing and rebuilding for sale or rental.
- 21 (viii) Acquiring, maintaining, and managing real estate,
- 22 improved or unimproved, to be used for offices and related facil-
- 23 ities of a savings bank, subsidiary, or service entity, or of a
- 24 person that owns an interest in the savings bank, subsidiary, or
- 25 service entity, or for offices and related facilities and for
- 26 rental or sale, if the acquisition, maintenance, and management
- 27 is performed under a prudent program of property acquisition to

1 meet either the present needs or reasonable future needs for
2 office and related facilities of the savings bank, subsidiary, or
3 service entity, or of the person that owns an interest in the
4 savings bank, subsidiary, or service entity.

5 (i~~x~~) Real estate brokerage under article 25 of the occupa-
6 tional code, Act No. 299 of the Public Acts of 1980, being sec-
7 tions 339.2501 to 339.2518 of the Michigan Compiled Laws. A sav-
8 ings bank with an investment in a real estate brokerage business
9 must comply with section 409.

10 (c) Securities brokerage and investment advisory services
11 that include execution of securities transactions on an agency or
12 riskless principal basis, and the provision of standardized and
13 individualized investment advice to individuals or entities.

14 (d) Other investments that include any of the following:

15 (i) Investing in adjustable rate preferred stock and money
16 market preferred stock.

17 (ii) Investing in an entity that provides insurance in con-
18 nection with loans, and investing in an entity which reinsures a
19 provider of the insurance.

20 (iii) Making voting and nonvoting investments in corpora-
21 tions and in partnerships, whether as a general or limited part-
22 ner, limited liability companies, and limited liability partner-
23 ships provided such other corporation or partnership or limited
24 liability company engages only in activities permissible for a
25 savings bank or a service entity.

26 (e) Other services that include any of the following:

1 (i) Preparing state and federal tax returns for individuals
2 or organizations that are not corporations operated for profit.

3 (ii) Acting as an insurance broker or agent.

4 (iii) Providing data processing services.

5 (f) Offering credit card programs, debit card programs, and
6 similar arrangements.

7 (g) Offering mutual fund investment products.

8 (5) A savings bank may also invest in service entities that
9 engage directly or through a wholly owned subsidiary in activi-
10 ties determined by order or declaratory ruling of the commis-
11 sioner to be incidental to the conduct of the business of a
12 financial services provider, activities that further or facili-
13 tate the purposes of a financial services provider, or which pro-
14 vide services to a financial services provider. The commissioner
15 shall consider the ability of service entities to exercise any
16 additional power in a safe and sound manner. The commissioner
17 shall also consider the ability of service entities to compete
18 with, or offer the same or similar services as offered by, serv-
19 ice corporations or service organizations of other providers of
20 financial services. The commissioner shall give notice to all
21 savings banks of rules promulgated, or declaratory rulings or
22 determinations, or orders issued pursuant to this subsection.

23 Sec. 411. The powers granted in sections 401 and 403 shall
24 not be construed as limiting any grant of authority made else-
25 where by this act except as provided in section 401. Except as
26 otherwise provided in this act or in the articles or in the

1 bylaws, such powers shall be exercised by the board of directors
2 of the savings bank.

3 Sec. 412. Upon written notice to the commissioner, a sav-
4 ings bank may change the location of its main office to any
5 existing branch location of the savings bank within the limits of
6 the city, village, or township in which the savings bank is
7 located. With the prior written approval of the commissioner, a
8 savings bank may change the location of its principal office to
9 any other location within this state.

10 Sec. 413. (1) A savings bank shall not engage in any trans-
11 action with respect to shares of the capital stock of any corpo-
12 ration unless specifically authorized by this act or by the com-
13 missioner under section 401 or 410.

14 (2) A savings bank may purchase and sell securities and
15 stock upon the order of and for the account of a customer without
16 recourse.

17 (3) A savings bank shall not make any loan or discount on
18 the security of the shares of its own capital stock, unless the
19 security is necessary to prevent loss upon a debt previously con-
20 tracted in good faith.

21 (4) A savings bank may purchase or hold shares of its own
22 stock if all of the following apply:

23 (a) The savings bank is holding shares previously purchased
24 until disposed of in compliance with an existing stock option
25 plan.

26 (b) The purchase or holding of the shares is necessary to
27 prevent loss upon a debt previously contracted in good faith.

1 (c) The commissioner gives written approval to the savings
2 bank to purchase or hold shares for its own account.

3 Sec. 414. (1) A savings bank possessing a capital and sur-
4 plus of \$1,000,000.00 or more may file application with the com-
5 missioner for permission to exercise, upon conditions and under
6 such rules, orders, or declaratory rulings as may be prescribed
7 by the commissioner, any of the following powers:

8 (a) To establish branches in foreign countries for the fur-
9 therance of foreign commerce of the United States and to act, if
10 required to do so, as fiscal agents of the United States.

11 (b) To invest an amount not exceeding in the aggregate 10%
12 of its paid in capital stock and surplus in the stock of 1 or
13 more banking organizations or corporations chartered or incorpo-
14 rated under the laws of the United States or of any state, terri-
15 tory, or protectorate of the United States, and principally
16 engaged in international or foreign banking, or banking either
17 directly or through the agency, ownership, or control of foreign
18 banks.

19 (c) To acquire and hold, directly or indirectly, stock or
20 other evidences of ownership in 1 or more foreign banks that are
21 not engaged, directly or indirectly, in any activity in the
22 United States except as, in the judgment of the commissioner, is
23 incidental to the international or foreign business of the for-
24 eign bank, and to make loans or extensions of credit to or for
25 the account of the foreign bank in the manner and within the
26 limits prescribed by the commissioner by general or specific rule
27 or ruling.

1 (2) An application under this section shall specify the name
2 and capital and surplus of the bank filing it, the powers applied
3 for and the places where the banking operations are to be carried
4 on. The commissioner may approve or reject the application in
5 whole or in part if for any reason the granting of the applica-
6 tion is considered inexpedient and from time to time may increase
7 or decrease the number of places where the banking operations may
8 be carried on.

9 (3) Every savings bank operating foreign branches under this
10 section shall furnish information concerning the condition of the
11 branches to the commissioner upon demand, and every savings bank
12 investing in capital stock of banking organizations or corpora-
13 tions as provided under this section shall furnish information
14 concerning the condition of the banking organizations or corpora-
15 tions to the commissioner upon demand. The commissioner may
16 order special examinations of the branches, banking organiza-
17 tions, or corporations at such times as he or she deems best.

18 (4) Before a savings bank is permitted to purchase stock in
19 a banking organization or corporation under this section, the
20 banking organization or corporation shall enter into an agreement
21 or undertaking with the commissioner to restrict their operations
22 or conduct their businesses in a manner or under such limitations
23 and restrictions as the commissioner may prescribe. If at any
24 time the commissioner has ascertained that the rules prescribed
25 by him or her are not being complied with, the commissioner may
26 institute an investigation of the matter and subpoena witnesses
27 and documents and administer oaths. If the investigation results

1 in establishing the failure of the banking organization or
2 corporation in question, or of the savings bank which is a stock-
3 holder, to comply with the rules of the commissioner, the commis-
4 sioner may order the savings bank to dispose of stockholdings in
5 the banking organization or corporation.

6 (5) Rules issued by the commissioner, in addition to regu-
7 lating powers which a foreign branch may exercise under other
8 provisions of law, may authorize a foreign branch, subject to
9 such conditions and requirements as the rules prescribe, to exer-
10 cise any further powers as may be usual in connection with the
11 transaction of the business of banking in the places where the
12 foreign branch transacts business. The rules shall not authorize
13 a foreign branch to engage in the general business of producing,
14 distributing, buying, or selling goods, wares, or merchandise.
15 Except to such limited extent as the commissioner may deem to be
16 necessary with respect to securities issued by any foreign gov-
17 ernment or any department, district, province, county, posses-
18 sion, or other similar governmental organization or subdivision
19 of a foreign government, and any agency or instrumentality of any
20 foreign government or of any organization or subdivision, the
21 rules shall not authorize a foreign branch to engage or partici-
22 pate, directly or indirectly, in the business of underwriting,
23 selling, or distributing securities.

24 Sec. 415. (1) Notwithstanding section 1105 of the commer-
25 cial code, Act No. 174 of the Public Acts of 1962, being section
26 440.1105 of the Michigan Compiled Laws, a savings bank doing
27 business in this state, that has 1 or more branch offices in any

1 foreign country shall be liable for contracts to be performed at
2 any branch offices and for deposits to be repaid at the branch
3 offices to no greater extent than a savings bank, banking corpo-
4 ration, or other organization or association for banking purposes
5 organized and existing under the laws of the foreign country
6 would be liable under its laws. The laws of the foreign country
7 for the purpose of this section shall be deemed to include all
8 acts, decrees, regulations, and orders promulgated or enforced by
9 a dominant authority asserting governmental, military, or police
10 power of any kind at the place where any branch office is
11 located, whether or not the dominant authority is recognized as a
12 de facto or de jure government.

13 (2) Notwithstanding section 1105 of Act No. 174 of the
14 Public Acts of 1962, if by action of a dominant authority that is
15 not recognized by the United States as the de jure government of
16 the foreign territory concerned, any property situated in or any
17 amount to be received in the foreign territory and carried as an
18 asset of any branch office of the savings bank in the foreign
19 territory is seized, destroyed, or canceled, then the liability
20 of the savings bank for any deposit received and to be repaid by
21 it, and for any contract made and to be performed by it, at any
22 branch office in the foreign territory shall be reduced pro tanto
23 by the proportion that the value, as shown by the books or other
24 records of the savings bank at the time of the seizure, destruc-
25 tion, or cancellation of the assets bears to the aggregate of all
26 the deposit and contract liabilities of the branch offices of the

1 savings bank in the foreign territory, as shown at such time by
2 the books or other records of the savings bank.

3 Sec. 416. (1) A savings bank may become the owner or lessor
4 of personal property for the purpose of leasing the property or
5 obtaining an assignment of a lessor's interest in a lease of the
6 property or permitting the use of the property, and may incur
7 additional obligations as may be incident to becoming an owner or
8 lessor of such property.

9 (2) Lease payments shall constitute rent rather than
10 interest.

11 (3) This section shall not exempt from general property tax-
12 ation any personal property of a savings bank which is leased,
13 loaned, or otherwise made available to and used by a private
14 individual, association, or corporation in connection with a
15 business conducted for profit. The personal property shall be
16 subject to taxation in the same amount and to the same extent as
17 though the lessee or user were the owner of the property. Taxes
18 shall be assessed to the lessees or users of the property and
19 collected in the same manner as taxes assessed to owners of per-
20 sonal property, except that the taxes shall not become a lien
21 against the property. When due, the taxes shall constitute a
22 debt due from the lessee or user to the unit of government for
23 which the taxes were assessed.

24 (4) A savings bank shall not acquire personal property under
25 this section if the acquisition results in an inventory of per-
26 sonal property not leased in excess of 20% of the savings bank's
27 capital and surplus.

1 Sec. 417. (1) Upon written notice to the commissioner, a
2 savings bank may establish and operate a branch or branches
3 within any state, the District of Columbia, or a territory or
4 protectorate of the United States, unless the commissioner
5 objects in writing within 60 days after receipt of the written
6 notice from the savings bank. The commissioner may issue to the
7 savings bank a written statement of intent not to object that
8 will have the same effect as a failure by the commissioner to
9 object within the 60 days provided for under this subsection. A
10 savings bank may exercise at a branch in another state the powers
11 consistent with the safe and sound conduct of the business of
12 banking as authorized by order or declaratory ruling of the com-
13 missioner and granted by the laws of the state where the branch
14 is located.

15 (2) The notice of intent to establish a mobile branch shall
16 contain a statement by the applying savings bank that it intends
17 to move the location of the physical structure of the branch from
18 time to time.

19 (3) A branch of a savings bank, except for a mobile branch,
20 shall not be moved from 1 location to another without 30 days'
21 advance written notice to the commissioner. The commissioner
22 shall not require advance notice of or a schedule showing the
23 location of a mobile branch, other than the notice required by
24 subsection (2).

25 (4) Upon written notice to the commissioner, a savings bank
26 may contract with 1 or more banks, out-of-state banks, national
27 banks, associations, credit unions, or other savings banks to act

1 as a branch of the savings bank, unless the commissioner objects
2 in writing within 60 days after receipt of the written notice
3 from the savings bank. The commissioner may issue to the savings
4 bank a written statement of intent not to object that will have
5 the same effect as a failure by the commissioner to object within
6 the 60 days provided for under this subsection. This subsection
7 shall not be construed to limit the powers granted to a savings
8 bank under section 401(cc).

9 (5) Upon written notice to the commissioner, 1 or more
10 banks, out-of-state banks, national banks, associations, credit
11 unions, or other savings banks, may contract with a savings bank
12 to act as a branch of the bank, out-of-state bank, national bank,
13 association, credit union, or other savings bank, unless the com-
14 missioner objects in writing within 60 days after receipt of the
15 written notice from the bank, out-of-state bank, national bank,
16 association, credit union, or other savings bank. The commis-
17 sioner may issue to the depository institution a written state-
18 ment of intent not to object that will have the same effect as a
19 failure by the commissioner to object within the 60 days provided
20 for under this subsection. This subsection shall not be con-
21 strued to limit the powers granted to a savings bank under sec-
22 tion 401(cc).

23 (6) An out-of-state bank located in a state, the District of
24 Columbia, or a territory or protectorate of the United States
25 whose laws permit the establishment in that state, district, ter-
26 ritory, or protectorate of a branch by a savings bank may
27 establish and operate 1 or more branches in this state.

1 (7) Upon 30 days' advance written notice to the
2 commissioner, a savings bank may contract with a person or entity
3 to act as an agent in an agency office. The written notice shall
4 include the name and address of the person or entity who will act
5 as agent for the savings bank, the location of the agency office,
6 when the agency office will be operational, and the activities in
7 which the agency office will initially be engaged. A savings
8 bank may perform any of the following activities through an
9 agency office:

10 (a) Accept a deposit to an existing account and record the
11 addition to the account or give other evidence of receipt as pre-
12 scribed by the savings bank.

13 (b) Accept a withdrawal form and such other evidence
14 required by the savings bank from an account holder for transmis-
15 sion to the main office or a branch office of the savings bank.

16 (c) Solicit and accept a new account. Evidence of account
17 ownership shall be issued only by authority of the main office or
18 a branch office of the savings bank. An agent may obtain signa-
19 ture cards from the savings bank for the account holder.

20 (d) Solicit and accept an application for a loan or for a
21 land contract purchase. The agent shall submit the application
22 to the main office or a branch of the savings bank for processing
23 and approval.

24 (e) Disburse withdrawn or loaned funds, upon approval of
25 each disbursement by the savings bank.

26 (f) Accept payment on a loan or on a land contract and issue
27 evidence of receipt as prescribed by the savings bank.

1 (g) Any other services as approved by rule, order, or
2 declaratory ruling of the commissioner.

3 (8) An agent in an agency office shall not possess an unis-
4 sued or blank authenticated savings account passbook or certifi-
5 cate or other evidence of account ownership.

6 Sec. 418. (1) Without notice to or approval of the commis-
7 sioner, a savings bank may establish and operate a loan produc-
8 tion office or loan production offices.

9 (2) A savings bank may perform any of the following activi-
10 ties through a loan production office:

11 (a) Receive loan applications.

12 (b) Process loans.

13 (c) Assemble information related to the approval of loans.

14 (d) Close loans.

15 (e) Disburse loan proceeds approved by the principal office
16 or a branch.

17 (f) Receive loan payments.

18 (g) Any other activities as approved by rule, order, or
19 declaratory ruling of the commissioner.

20 Sec. 419. Notwithstanding any other provision of this act,
21 a savings bank that purchases or assumes all or any part of the
22 assets or liabilities of an eligible insured national or state
23 chartered bank, savings bank, or association or merges or consol-
24 idates with a national bank, state chartered bank, savings bank,
25 or association may retain and maintain the main premises,
26 branches, or agency offices of the former national bank, state
27 chartered bank, savings bank, or association as branches of the

1 purchasing, merging, or consolidating savings bank, provided it
2 assumes the deposit liabilities of the eligible national bank,
3 state chartered bank, savings bank, or association maintained at
4 the main premises, branches, or agency offices. The notice
5 required by section 417(1) shall be given for each main premises,
6 branch, or agency office the purchasing, merging, or consolidat-
7 ing savings bank intends to operate as a new branch.

8 Sec. 420. If a savings bank permanently discontinues the
9 operations of any branch or agency office, all bills, checks, and
10 notes otherwise presentable for acceptance or payment, all depos-
11 its to be made or withdrawn, all notices to stop payment of
12 checks to be given, and similar functions, shall be deemed trans-
13 ferable to, and treated as a part of, the principal office of the
14 savings bank. The savings bank shall give written notice to the
15 commissioner before discontinuing operations of any branch or
16 agency office.

17 Sec. 421. (1) Upon application, the commissioner may grant
18 to a savings bank full trust powers, as provided in this section,
19 but subject to the conditions, limitations, and restrictions in
20 this section and sections 422 to 428.

21 (2) Upon approval of the application, the savings bank has
22 the power to conduct a trust business including, but not limited
23 to, any of the following:

24 (a) In and by its corporate name to take, receive, hold,
25 repay, reconvey, and dispose of any effects and property, both
26 real and personal, that may be granted, committed, transferred,
27 or conveyed to it with its consent, upon any terms or upon any

1 trust at any time, by any person, including minors, bodies
2 corporate, or by any court, including the federal courts, in the
3 state, and to administer, fulfill, and discharge the duties of
4 the trust for the remuneration as agreed upon.

5 (b) To act generally as agent for the transaction of busi-
6 ness, the management of estates, the collection of rents, inter-
7 est, dividends, and money, and the collection of principal and
8 interest on mortgages, bonds, notes, and securities for money and
9 to enforce the payment thereof, and to act as agent for the pur-
10 pose of issuing, negotiating, registering, transferring, or coun-
11 tersigning the certificates of stock, bonds, or other obligations
12 of any corporation, association, or municipality and to manage
13 any sinking fund on the terms as agreed upon.

14 (c) To accept and to execute the offices of personal repre-
15 sentative, trustee, receiver, conservator, liquidating agent,
16 assignee, or guardian of any minor, incompetent person, legally
17 incapacitated person, or person subject to guardianship, subject
18 to the laws of this state applicable to those proceedings. In
19 all cases when application is made to any court in this state for
20 the appointment of any trustee, receiver, personal representa-
21 tive, conservator, or guardian of any minor, incompetent person,
22 legally incapacitated person, or other person subject to conser-
23 vatorship or guardianship, the court may appoint the savings
24 bank, with its consent, to hold the office. The accounts of the
25 savings bank as trustee, receiver, conservator, liquidating
26 agent, assignee, personal representative, or guardian shall be
27 regularly settled and adjusted by the proper office or

1 tribunals. All proper, legal, usual, and customary charges,
2 costs, and expenses shall be allowed to the savings bank for the
3 care and management of the estate so committed to it. In case of
4 appointment by any court, the savings bank shall not be required
5 to give any security except in the discretion of the court, other
6 than as provided in section 426 for deposit with the state
7 treasurer. If the court orders the savings bank to give securi-
8 ty, the security shall be a bond in an amount fixed by the court
9 and with a surety company authorized to do business in this state
10 as surety on the bond, or with personal surety or sureties on the
11 bond satisfactory to the court. If any savings bank is required,
12 in the course of the administration of any trust, to give a bond,
13 whether as additional security, substituted security, or other-
14 wise, the surety on the bond shall not be liable directly or
15 indirectly for any act or default committed by the savings bank
16 prior to the date of the filing and approval of the bond, or for
17 the failure of the savings bank to pay over on final settlement
18 if the failure to pay over is due to an act or default committed
19 prior to the filing and approval of the bond, or for the failure
20 of the savings bank to collect from itself or from any prior
21 surety or sureties the amount of any loss due any act or default
22 committed by the savings bank prior to the date of the filing and
23 approval of the bond.

24 (d) To exercise by its board of directors or authorized
25 officers or agents all incidental powers as are necessary to
26 carry on a trust business.

1 Sec. 422. (1) As used in this section:

2 (a) "Banking office" means a main office or authorized
3 branch of a bank, out-of-state bank, national bank, association,
4 or savings bank.

5 (b) "Host savings bank" means a bank, national bank, associ-
6 ation, or savings bank for which trust services are provided by
7 any other bank, out-of-state bank, national bank, association, or
8 savings bank.

9 (c) "Trust service provider" means a savings bank providing
10 trust services to any other bank, out-of-state bank, national
11 bank, association, or savings bank.

12 (2) A savings bank granted full trust powers may contract by
13 written agreement with any bank, out-of-state bank, national
14 bank, association, or other savings bank to carry on trust serv-
15 ices in its name and for its account at 1 or more of the banking
16 offices of the bank, out-of-state bank, national bank, associa-
17 tion, or other savings bank.

18 (3) A savings bank may contract by written agreement with
19 any bank, out-of-state bank, national bank, association, or other
20 savings bank exercising full trust powers to carry on trust serv-
21 ices at 1 or more of its banking offices but in the name and for
22 the account of the bank, out-of-state bank, national bank, asso-
23 ciation, or other savings bank.

24 (4) An agreement provided for in this section, including a
25 lease, or a modification or extension of an agreement, is not
26 effective as to any savings bank until it is approved in writing
27 by the commissioner. The commissioner may approve the agreement

1 upon consideration of the sufficiency of the capital and surplus
2 of the banks, out-of-state banks, national banks, associations,
3 or savings banks, the need for trust services, and other facts or
4 circumstances that the commissioner considers proper.

5 (5) Thirty days after a host savings bank mails a notice of
6 substitution as provided in the subsection (6), a trust service
7 provider shall be substituted for a host savings bank as fidu-
8 ciary or agent and succeed to the title of assets held by a host
9 savings bank in a fiduciary capacity for each account in which
10 the host savings bank, under the terms of a trust service agree-
11 ment approved by the commissioner, will no longer serve as fidu-
12 ciary or agent. A trust service provider shall not be substi-
13 tuted for the host savings bank for an account in which the
14 recipient of a notice of substitution with respect to that
15 account objects to the substitution under subsection (6).

16 (6) For an account in which a trust service provider is sub-
17 stituted for a host savings bank under the terms of a trust serv-
18 ice agreement, a written notice of substitution shall be sent by
19 the host savings bank by certified mail. The notice of substitu-
20 tion shall include the date the notice was mailed and explain
21 that the trust service provider will not be substituted for the
22 host savings bank for the account if the recipient of the notice
23 sends a written objection to the host savings bank by first-class
24 mail within 30 days after the date the notice was mailed. The
25 notice of substitution shall be sent to all of the following:

26 (a) For employee benefit plans, to the plan sponsors.

1 (b) For individual retirement accounts and retirement
2 accounts for the self-employed, to the account owners.

3 (c) For agency and escrow accounts, to the principals.

4 (d) For securities for which a host savings bank serves as
5 trustee, registrar, transfer agent, or paying agent, to the
6 issuers.

7 (e) For revocable trusts under agreement, to the settlors.

8 (f) For irrevocable trusts under agreement, to any
9 co-fiduciary, to the settlor, to each current income beneficiary
10 who is an adult, and, if a current income beneficiary is a minor,
11 to a parent of the minor with whom the minor resides or to the
12 conservator or guardian of the minor. The notice to the settlor
13 shall not grant to the settlor any authority over the trust or
14 trustee that the settlor did not have before the notice, includ-
15 ing the authority to object to the substitution of a trust serv-
16 ice provider for a host savings bank. For purposes of this sub-
17 division, "current income beneficiary" means a person currently
18 entitled to income or a person to whom the trustee, in the
19 trustee's discretion, may pay principal or income.

20 (g) For testamentary trusts, to the persons notified under
21 subdivision (f) and to the probate court that appointed the host
22 savings bank as trustee.

23 (h) For conservatorships, to any co-fiduciary, to the pro-
24 tected person for whom the conservatorship was created or, if the
25 conservatorship was created for a minor, to a parent of the minor
26 with whom the minor resides or to the guardian of the minor, and

1 to the probate court that appointed the host savings bank as
2 conservator.

3 (i) For guardianships, to any co-fiduciary, to the minor or
4 legally incapacitated person for whom the guardian was appointed
5 if the ward is at least 14 years of age, and to the probate court
6 that appointed the host savings bank as guardian.

7 (j) For probate estates, to any co-fiduciary, to any inter-
8 ested party as defined by section 7 of the revised probate code,
9 Act No. 642 of the Public Acts of 1978, being section 700.7 of
10 the Michigan Compiled Laws, and to the probate court that
11 appointed the host savings bank as personal representative.

12 (7) Subsections (1), (5), and (6) apply to trust service
13 agreements in effect on or after the effective date of this act.

14 Sec. 423. (1) A savings bank exercising a trust power under
15 sections 421 to 427 shall segregate all assets held in a fidu-
16 ciary capacity from the general assets of the bank, keep a sepa-
17 rate set of books and records showing in proper detail all trans-
18 actions engaged under sections 421 to 427, and at all times keep
19 the savings bank's trust department business separate and dis-
20 tinct from the savings bank's commercial banking business.

21 (2) Funds, at any time and from time to time, held in trust
22 by the savings bank, awaiting investment or other disposition,
23 may be commingled and consolidated, and may be deposited in other
24 financial institutions not affiliated with the savings bank as
25 designated by the board of directors or may be held at any time
26 and from time to time by the savings bank under a deposit
27 relationship and used by the savings bank in the conduct of the

1 savings bank's individual corporate business but only to the
2 extent and when the savings bank shall set aside for the protec-
3 tion of the owners of the funds obligations of the United States,
4 obligations that are guaranteed fully as to principal and inter-
5 est by the United States, general obligations of this state or of
6 any political subdivision of this state, or other securities
7 approved by the commissioner equal at face value to the amount of
8 the funds held, less the amounts of the funds which are insured
9 by the federal deposit insurance corporation. If the savings
10 bank fails, the owners of the funds held in trust, awaiting
11 investment or other disposition, shall have a lien on the securi-
12 ties set apart in addition to any other claims against the sav-
13 ings bank.

14 Sec. 424. (1) In passing upon applications for permission
15 to exercise full fiduciary powers under section 421, the commis-
16 sioner shall take into consideration the following, and he or she
17 may grant or refuse the application accordingly:

18 (a) The sufficiency of the capital and surplus of the apply-
19 ing savings bank.

20 (b) Any other facts or circumstances that he or she deems
21 proper.

22 (2) Without regard to the capital and surplus requirements
23 under subsection (1), the commissioner may grant to a savings
24 bank the limited trust power to act as executor, administrator,
25 custodian, conservator, guardian, or to serve as a testamentary
26 trustee.

1 Sec. 425. (1) Before a savings bank or out-of-state bank
2 has commenced exercising trust powers, it shall deposit with the
3 state treasurer securities of par value equal to not less than
4 50% of the amount of its capital stock or \$500,000.00, whichever
5 is less.

6 (2) The securities shall be obligations of the United
7 States, obligations that are guaranteed fully as to principal and
8 interest by the United States, general obligations of this state
9 or of any political subdivision of this state, or other securi-
10 ties approved by the commissioner and shall be held by the state
11 treasurer in trust as security for the trust creditors of the
12 savings bank.

13 (3) The state treasurer may accept in lieu of the actual
14 deposit of securities a safekeeping receipt from a duly qualified
15 depository institution designated by the state treasurer, which
16 safekeeping receipt shall acknowledge the possession of the
17 securities and that they are held subject only to the order of
18 the state treasurer. The existence of such deposit and the
19 amount shall be considered by a court in connection with the
20 requirement of the court with respect to the giving of security
21 by the savings bank for the discharge of its obligations in the
22 execution of the office of executor, administrator, trustee,
23 receiver or assignee, conservator, or guardian of any minor,
24 incompetent person, mental incompetent, or any person subject to
25 conservatorship or guardianship.

26 (4) Upon the deposit being made, the state treasurer shall
27 issue to the savings bank a certificate and the securities or

1 safekeeping receipts shall remain on deposit in the state
2 treasury. The state treasurer shall pay over to the savings
3 bank, as soon as collected, the interest and income received on
4 the securities or authorize the bank to collect the same for its
5 own benefit.

6 (5) If a savings bank goes into liquidation under this act,
7 the deposit shall be returned by the state treasurer to the liq-
8 uidating committee or liquidating agent appointed by the share-
9 holders of the savings bank, to be applied under the direction of
10 the commissioner by the liquidating committee or liquidating
11 agent. If a receiver is appointed for the savings bank, the
12 deposit of securities shall be returned to the receiver to be
13 applied as the court may order. If under a plan of reorganiza-
14 tion of the savings bank, the deposit of securities are assigned
15 by the savings bank to a liquidating committee, liquidating
16 trustees, or liquidating agents, or if the securities are to be
17 liquidated by the savings bank itself, the deposit of securities
18 upon the written order of the commissioner shall be returned to
19 the liquidating committee, liquidating trustees, liquidating
20 agents, or savings bank, to be applied under the direction of the
21 commissioner.

22 Sec. 426. (1) Funds or property held by a savings bank as
23 fiduciary and available for investment shall be invested at the
24 time and in the manner specified by the agreement, instrument, or
25 order creating or defining the trust or other capacity in which
26 the savings bank is acting or, where the savings bank holds the
27 funds or property as agent, as directed or permitted by the

1 savings bank's principal. In the absence of investment
2 specifications or limitations in the agreement, instrument, or
3 order, funds or property held by a savings bank as fiduciary
4 shall within a reasonable time be invested in real or personal
5 property, of whatever type or nature, as an ordinarily prudent
6 person of intelligence and integrity who is a trustee of the
7 money of others would purchase, in the exercise of reasonable
8 care, judgment, and diligence under the conditions existing at
9 the time of purchase, having due regard, in the case of a pur-
10 chase of securities, for the management, reputation, and stabil-
11 ity of the issuer and the character of the particular
12 securities.

13 (2) Except as otherwise provided by law, a court order, or
14 the agreement, instrument, or order creating or defining the
15 trust, or other capacity in which the savings bank is acting or
16 with the consent of all interested parties or their representa-
17 tives, or where the savings bank holds the funds or property as
18 agent, as directed or permitted by the savings bank's principal,
19 funds or property held by a savings bank as fiduciary shall not
20 be invested in any securities or other properties, real or per-
21 sonal, purchased from the savings bank in its individual capacity
22 or from any affiliate of the bank.

23 (3) Notwithstanding a statutory or common law, except when
24 the agreement, instrument, or order creating or defining the
25 trust or other capacity in which the savings bank, or the savings
26 bank and 1 or more co-fiduciaries, invest in a registered
27 investment company funds or property with respect to which the

1 savings bank, or the savings bank and 1 or more co-fiduciaries,
2 exercises investment discretion, even though either or both of
3 the following apply:

4 (a) The savings bank or an affiliate of the savings bank
5 provides services as investment adviser, sponsor, distributor,
6 manager, custodian, transfer agent, registrar, or otherwise to
7 the investment company and receives reasonable remuneration for
8 those services.

9 (b) The savings bank as fiduciary owns or controls a major-
10 ity of the voting shares of the investment company or a majority
11 of the shares voted for the election of its directors or trustees
12 or the savings bank as fiduciary otherwise controls the election
13 of a majority of its directors or trustees.

14 (4) As used in subsection (3), "registered investment
15 company" means an investment company that is registered under the
16 investment company act of 1940, title I of chapter 686, 54
17 Stat. 789.

18 (5) For purposes of this section, a savings bank is consid-
19 ered to be holding funds or property in a fiduciary capacity if
20 it is holding the assets as trustee, personal representative,
21 custodian, conservator, guardian, agent, or in any other fidu-
22 ciary capacity.

23 Sec. 427. The commissioner may promulgate rules to enforce
24 sections 421 to 426.

25 Sec. 428. (1) A savings bank may operate a safe deposit and
26 storage department or invest an amount not exceeding in the
27 aggregate 15% of its unimpaired capital and surplus, or 15% of

1 its total capital in the case of a mutual savings bank, in the
2 stock of not more than 1 safe and collateral deposit company
3 organized under the laws of this state.

4 (2) If a savings bank operates a safe deposit and storage
5 department, the legal liability of the savings bank on account of
6 any loss to a customer shall not exceed the sum of \$10,000.00 for
7 any 1 box or compartment, including all property accepted for
8 storage outside of the box or compartment. The savings bank may
9 contract with the renter to have the renter assume all risks
10 arising from the use of the box, compartment, or storage.

11 (3) The savings bank shall have a lien for unpaid rental and
12 storage charges on the contents of any box or compartment and any
13 property accepted for storage outside of the box or compartment.
14 If the charges are not paid within 1 year from the date of accru-
15 al, then the savings bank may sell the property at public auction
16 upon like notice as is required by law for sales on execution.

17 (4) After retaining from the proceeds of sale the amount of
18 all charges due and owing at the time of the sale and the reason-
19 able expenses of the sale, the savings bank shall pay any balance
20 to the persons entitled to the proceeds. The savings bank may
21 fairly and in good faith purchase all or part of the property at
22 the sale.

23 Sec. 429. (1) A savings bank may lease, purchase, hold, and
24 convey real estate for any of the following purposes:

25 (a) For the convenient transaction of its business, includ-
26 ing with its banking offices other space in the same buildings to
27 rent as lessor. Without the approval of the commissioner, a

1 savings bank shall not invest in premises of the savings bank or
2 in the stock, bonds, debentures, or other obligations of any cor-
3 poration holding the premises of the savings bank or make loans
4 to or upon the security of the stock, bonds, and debentures of
5 any such corporation, if the aggregate of all investments and
6 loans, together with the amount of any indebtedness incurred in
7 connection with a bank premises real estate transaction by any
8 such corporation which is an affiliate of the savings bank,
9 exceeds $\frac{2}{3}$ of the capital and surplus of the stock savings bank
10 or $\frac{2}{3}$ of the total capital of the mutual savings bank.

11 (b) As permitted under section 408.

12 (c) For all purposes with regard to real estate conveyed to
13 it in satisfaction of debts previously contracted in the course
14 of its business.

15 (d) For all purposes with regard to real estate purchased at
16 sales under judgments, decrees, or mortgages held by the savings
17 bank or purchased to secure debts due to it.

18 (e) For all purposes with regard to real estate legally
19 owned by the savings bank on the effective date of this act.

20 (f) For all purposes with regard to real estate conveyed to
21 it under sections 421 through 427.

22 (g) For all purposes with regard to real estate acquired in
23 connection with the purchase by the savings bank of a land
24 contract. At the termination of a land contract, the savings
25 bank shall divest itself of the real estate within 1 year after
26 termination or such additional period as the commissioner may
27 approve.

1 (h) For all purposes with regard to real estate acquired
2 upon the specific request and for the use of a customer by lease
3 arrangement with the savings bank. At the termination of a
4 lease, the savings bank shall divest itself of the real estate
5 within 1 year after termination or such additional period as the
6 commissioner may approve.

7 (i) Any other purposes as may be permitted by order or
8 declaratory ruling of the commissioner.

9 (2) Real estate shall be conveyed under the corporate seal
10 of the savings bank and the signature of the officers authorized
11 by its board of directors to approve the conveyance.

12 (3) Real estate acquired under subsection (1)(c) and (d)
13 shall not be held for a period longer than 5 years or such other
14 period as approved by the commissioner.

15 Sec. 430. (1) Savings banks may collect interest and
16 charges on loans, including open-end credit, as follows:

17 (a) As permitted by the credit reform act, Act No. 162 of
18 the Public Acts of 1995, being sections 445.1851 to 445.1846 of
19 the Michigan Compiled Laws.

20 (b) On obligations purchased by the savings bank, the sav-
21 ings bank may charge a discount.

22 (c) On a loan not covered by subdivision (a) or (b), a sav-
23 ings bank may charge, collect, and receive interest and other
24 charges in the same manner and at up to maximum rate or amount
25 permitted by law for the same type of loans made by national
26 banking associations authorized to do business in this state.

1 (d) On a loan not covered by subdivision (a), (b), or (c),
2 as otherwise permitted by law.

3 (2) A savings bank or any officer or employee of the savings
4 bank shall not, directly or indirectly, take or receive more than
5 the rate of interest allowed by law in advance on its loans and
6 discounts.

7 (3) Except as otherwise provided by law, an investigation
8 fee or handling charge in connection with any transaction shall
9 not be considered as interest.

10 (4) A savings bank may pay interest on any deposit that is
11 payable on demand, unless the commissioner by rule, or order, or
12 declaratory ruling restricts the right of the savings bank to pay
13 interest on demand deposits or unless restricted federal law.

14 Sec. 431. (1) A savings bank may accept drafts or bills of
15 exchange drawn upon it having not more than 6 months' sight to
16 run, exclusive of days of grace, if 1 or more of the following
17 apply:

18 (a) The drafts or bills of exchange grow out of transactions
19 involving the importation or exportation of goods.

20 (b) The drafts or bills of exchange grow out of transactions
21 involving the domestic shipment of goods.

22 (c) The drafts or bills of exchange are secured at the time
23 of acceptance by a warehouse receipt or other such document con-
24 veying or securing title covering readily marketable staples.

25 (2) Except as provided in subsection (3), a savings bank
26 shall not accept bills of exchange, or be obligated for a
27 participation share in such bills, in an amount equal at any time

1 in the aggregate to more than 150% of the capital and surplus of
2 a stock savings bank and more than 150% of the total capital of a
3 mutual savings bank.

4 (3) Under conditions as the commissioner may prescribe, the
5 commissioner may authorize, by rule, order, or declaratory
6 ruling, a savings bank to accept bills of exchange, or be obli-
7 gated for a participation share in such bills, in an amount not
8 exceeding at any time in the aggregate 200% of the capital and
9 surplus of a stock savings bank and more than 200% of the total
10 capital of a mutual savings bank.

11 (4) Notwithstanding subsections (2) and (3), with respect to
12 any savings bank, the aggregate acceptances, including obliga-
13 tions for a participation share in the acceptances, growing out
14 of domestic transactions shall not exceed 50% of the aggregate of
15 all acceptances, including obligations for a participation share
16 in the acceptances, authorized for the savings bank under this
17 section.

18 (5) A savings bank shall not accept bills of exchange, or be
19 obligated for a participation share in such bills, whether in a
20 foreign or domestic transaction, for any 1 person, partnership,
21 corporation, association, or other entity in an amount equal at
22 any time in the aggregate to more than 10% of the capital and
23 surplus of a stock savings bank and more than 10% mutual savings
24 bank, unless the savings bank is secured either by attached docu-
25 ments or by some other actual security growing out of the same
26 transaction as the acceptance.

1 (6) If a savings bank issues an acceptance, the limitations
2 of this section do not apply to that portion of an acceptance
3 that is issued by the savings bank and is covered by a participa-
4 tion agreement sold to a bank, out-of-state bank, national bank,
5 association, or other savings bank.

6 Sec. 432. (1) The total loans and extensions of credit by a
7 stock savings bank to a person at no time shall exceed 15% of the
8 capital and surplus of the stock savings bank, except that upon
9 approval by 2/3 vote of its board of directors the limit may be
10 increased not to exceed 25% of the capital and surplus of the
11 stock savings bank.

12 (2) The total loans and extensions of credit by a mutual
13 savings bank to a person at no time shall exceed 15% of the total
14 capital of the mutual savings bank, except that upon approval by
15 2/3 vote of its board of directors the limit may be increased not
16 to exceed 25% of the total capital of the mutual savings bank.

17 (3) If the commissioner determines that the interests of a
18 group of more than 1 person, copartnership, association, or cor-
19 poration are so interrelated that they should be considered as a
20 unit for the purpose for which credit was extended, the total
21 loans and extensions of credit of that group acquired at any time
22 shall be combined and considered loans and extensions of credit
23 acquired from 1 customer in applying the limitations of this sec-
24 tion through section 434.

25 (4) A savings bank is not considered to have violated this
26 section through section 434 solely by reason of the fact that the
27 indebtedness of a group then held exceeds the limitations of this

1 section through section 434 at the time of a determination by the
2 commissioner that the indebtedness of that group shall be com-
3 bined, but if required by the commissioner the savings bank shall
4 make a reasonable attempt to dispose of indebtedness of the group
5 in the amount in excess of the limitations within a reasonable
6 time determined by the commissioner.

7 (5) The limitations under subsection (1) shall not apply to
8 loans and extensions of credit described in sections 432 and
9 433.

10 (6) As used in this section and sections 433 and 434:

11 (a) "Loan and extension of credit" or "loan or extension of
12 credit" includes all direct or indirect advances of funds to a
13 person made on the basis of an obligation of that person to repay
14 the funds or repayable from specific property pledged by or on
15 behalf of the person. To the extent specified by the commission-
16 er, loan and extension of credit or loan or extension of credit
17 includes any liability of a savings bank to advance funds to or
18 on behalf of a person under a contractual commitment. Such term
19 also includes the cost of purchase of personal property for the
20 purpose of leasing the property to a person. Loan and extension
21 of credit or loan or extension of credit does not include invest-
22 ment securities held by a savings bank under section 411.

23 (b) "Person" means an individual, partnership, association,
24 corporation, governmental entity, or any other legal entity.

25 Sec. 433. All of the following loans and extensions of
26 credit are not subject to a limitation based upon capital and
27 surplus, or total capital under section 432 or 434:

1 (a) A loan or extension of credit arising from the discount
2 of commercial or business paper evidencing an obligation to the
3 person negotiating it with recourse.

4 (b) The purchase of banker's acceptances of another bank of
5 the kind described in paragraph 7 of section 13 of the federal
6 reserve act, chapter 6, 38 Stat. 251.

7 (c) A loan or extension of credit to a financial institution
8 or to a receiver, conservator, or any other agent or supervising
9 authority in charge of the business and property of the financial
10 institution, when the loan or extension of credit is approved by
11 the commissioner.

12 (d) A loan or extension of credit to a customer, secured or
13 covered by guarantees or by commitments or agreements to take
14 over or to purchase the loan or extension of credit, made by a
15 federal reserve bank or by the United States, or a department,
16 bureau, board, commission, or establishment of the United States,
17 including a corporation wholly owned directly or indirectly by
18 the United States.

19 (e) A loan or extension of credit from 1 business day to the
20 next to a bank, out-of-state bank, national bank, association, or
21 savings bank of excess reserve balances from time to time main-
22 tained under section 19 of the federal reserve act, chapter 6, 38
23 Stat. 251.

24 (f) A loan or extension of credit secured by bonds, notes,
25 certificates of indebtedness, or treasury bills of the United
26 States or by other obligations fully guaranteed as to principal
27 and interest by the United States.

1 (g) A loan or extension of credit secured by a loan
2 agreement between a local public agency or a public housing
3 agency and an instrumentality of the United States pursuant to
4 federal housing legislation under which funds will be provided
5 for payment of the obligation secured by the loan agreement.

6 (h) A loan or extension of credit arising from securities
7 purchased under an agreement to resell.

8 (i) A loan or extension of credit to the student loan mar-
9 keting association.

10 (j) A loan or extension of credit fully secured by a segre-
11 gated deposit account in the lending savings bank.

12 (k) A loan or extension of credit arising from the accep-
13 tance by a savings bank of drafts or bills of exchange drawn upon
14 the savings bank, or a savings bank's participation in drafts or
15 bills of exchange drawn upon and accepted by a bank, out-of-state
16 bank, national bank, association, or savings bank under
17 section 431.

18 Sec. 434. All of the following limitations based upon capi-
19 tal and surplus shall apply:

20 (a) Loans and extensions of credit to a customer secured by
21 bills of lading, warehouse receipts, or similar documents trans-
22 ferring or securing title to readily marketable staples shall be
23 subject to a limitation of 30% of capital and surplus of a stock
24 savings bank, or 30% of total capital of a mutual savings bank,
25 if the market value of the staples securing the loans or exten-
26 sions of credit at all times equals or exceeds 115% of the
27 outstanding amount of the loans or extensions of credit. The

1 staples shall be fully covered by insurance if it is customary to
2 insure the staples.

3 (b) Loans or extensions of credit to a customer secured by
4 shipping documents or instruments transferring or securing title
5 covering livestock, or giving a lien on livestock, if the market
6 value of the livestock securing the obligation is not at any time
7 less than 115% of the face amount of the notes covered, shall be
8 subject to a limitation of 30% of capital and surplus of a stock
9 savings bank, or 30% of total capital of a mutual savings bank.
10 Loans or extensions of credit arising from the discount by deal-
11 ers in dairy cattle of paper given in payment for dairy cattle,
12 which paper carries a full recourse indorsement or unconditional
13 guarantee of the seller and which are secured by the cattle being
14 sold, shall be subject to a limitation of 30% of capital and
15 surplus.

16 (c) Loans or extensions of credit arising from the discount
17 of negotiable or nonnegotiable installment consumer paper which
18 carries a full recourse indorsement or unconditional guarantee by
19 a person transferring the paper, shall be subject to a limitation
20 of 30% of capital and surplus of a stock savings bank, or 30% of
21 total capital of a mutual savings bank. If the savings bank's
22 files or the knowledge of its officers of the financial condition
23 of each maker of the consumer paper is reasonable adequate, and
24 an officer of the savings bank designated for that purpose by the
25 board of directors of the savings bank certifies in writing that
26 the savings bank is relying primarily upon the responsibility of
27 each maker for the payment of the loans or extensions of credit,

1 the limitations of this section as to the loans and extensions of
2 credit of each maker shall be the sole applicable loan
3 limitation. The certification shall be retained as part of the
4 records of the savings bank.

5 CHAPTER 5

6 REGULATION

7 Sec. 501. (1) A stock savings bank whose capital, in the
8 opinion of the commissioner, has become impaired by losses or
9 otherwise, within 2 months after receiving notice thereof from
10 the commissioner, shall correct the deficiency in the capital by
11 an assessment upon the shareholders pro rata on the amount of
12 capital stock held by each. If a stock savings bank fails to
13 restore its capital within 2 months after receiving notice from
14 the commissioner or, within the same period, fails to take steps
15 to liquidate its business and affairs a receiver may be appointed
16 for the savings bank under this act. The commissioner, in his or
17 her discretion, may grant extensions of time as he or she deems
18 advisable in order to allow the savings bank to meet the defi-
19 ciency in the capital.

20 (2) If any part of the capital of a savings bank consists of
21 preferred stock, the determination of whether or not the capital
22 of the savings bank is impaired and the amount of impairment
23 shall be based upon the par value of its stock even though the
24 amount which the holders of the preferred stock shall be entitled
25 to receive in the event of retirement or liquidation shall be in
26 excess of the par value of the preferred stock.

1 (3) The directors of a savings bank whose capital has become
2 impaired by losses or otherwise shall levy within the 2 month
3 period an assessment upon the stock of the savings bank to repair
4 the deficiency, and give notice of the action of the commissioner
5 and the amount of the assessment that each shareholder must pay
6 for the purpose of making good the deficiency to each shareholder
7 by written notice personally served or mailed to the shareholder
8 at his or her last known address as appears from the records of
9 the savings bank.

10 (4) If the assessment is levied by the directors and a
11 shareholder refuses or neglects to pay the assessment under this
12 section within 30 days from the date of the notice of the amount
13 to be paid, the directors of the savings bank shall sell the
14 stock of the shareholder to the highest bidder at either public
15 or private sale in the manner provided for the disposition of
16 collateral under section 9504 of the uniform commercial code, Act
17 No. 174 of the Public Acts of 1962, being section 440.9504 of the
18 Michigan Compiled Laws.

19 (5) A sale of stock under this section shall effect an abso-
20 lute cancellation of the outstanding certificates evidencing the
21 stock sold and make the certificates null and void and new cer-
22 tificates shall be issued by the savings bank to the new
23 purchaser. Out of the proceeds of the stocks sold, the directors
24 shall pay the necessary costs of sale and the amount of assess-
25 ment levied on the stocks and any remaining balance shall be paid
26 to the person whose stock has been sold.

1 (6) The holders of preferred stock shall not be liable for
2 assessments to restore impairment in the capital of a savings
3 bank.

4 Sec. 502. If the directors or officers of a savings bank
5 knowingly violate or knowingly permit any of the agents, offi-
6 cers, or directors of a savings bank to violate this act or rules
7 of the commissioner made under this act shall be liable in his or
8 her personal and individual capacity for all damages that the
9 savings bank, any shareholder, or any other person sustains in
10 consequence of the violation. Any action to recover damages
11 shall be brought within 3 years from the time of the violation.

12 Sec. 503. An officer or employee of a savings bank, in his
13 or her individual capacity, shall not act as agent in the sale of
14 stock or other securities to another person, or receive directly
15 or indirectly any consideration or commission resulting from the
16 sale of stock or other securities by others to the savings bank
17 of which he or she is employed, unless authorized by order or
18 declaratory ruling of the commissioner.

19 Sec. 504. An officer, director, or employee of a savings
20 bank shall not receive any consideration or gratuity from a bor-
21 rower for procuring a loan from the savings bank.

22 Sec. 505. (1) The board of directors shall require every
23 employee concerned in the handling of money, accounts, or securi-
24 ties of the savings bank, who can be bonded, to be bonded by a
25 surety company authorized to do business in this state in an
26 amount determined by the board. A surety bond may cover 1 or

1 more employees. The savings bank shall pay for any surety bonds
2 required of its employees.

3 (2) The commissioner shall require every savings bank to
4 provide reasonable protection and indemnity against burglary,
5 defalcation, and other reasonably required insurable losses.
6 Whenever a savings bank refuses to comply with the requirements
7 of this section, the commissioner may contract for the protection
8 and indemnity and charge the costs to the savings bank. If the
9 charge is not paid, the commissioner shall collect the costs in
10 an action instituted by the attorney general.

11 Sec. 506. (1) The commissioner may require reports from a
12 savings bank whenever, in the commissioner's judgment, they are
13 necessary to inform the commissioner fully as to the condition of
14 the savings bank. The commissioner may require publication of
15 reports and proof of publication by a date determined by the com-
16 missioner and in the manner and form as the commissioner may pre-
17 scribe, except that the commissioner shall give a bank at least
18 30 days written notice of the date required for the publication
19 of reports.

20 (2) A savings bank that does not make and transmit to the
21 commissioner a report required by this section shall be subject
22 to a penalty of \$100.00 for each day after the date from making
23 the report. All penalties collected shall be paid into the state
24 treasury to the credit of the general fund. If a savings bank
25 delays or refuses to pay the penalty, the commissioner may main-
26 tain an action against the delinquent savings bank for the
27 recovery of the penalty.

1 Sec. 507. Notwithstanding any other provision of law, the
2 board of directors of a savings bank, with the approval of the
3 commissioner, may regulate and prescribe the terms, conditions,
4 and bylaws and rules under which deposits, other funds and assets
5 may be received, conserved, paid out, withdrawn, or otherwise
6 disposed of whenever in the opinion of the commissioner an emer-
7 gency exists in the affairs of a savings bank and the action is
8 advisable to conserve, safeguard, and protect depositor, borrow-
9 ers, deposits, moneys, funds, assets, and the business of the
10 savings bank and all parties in interest, including the public.

11 Sec. 508. (1) Except as otherwise provided in this section,
12 a savings bank or savings bank officer shall not give preference
13 to a depositor or creditor by pledging the assets of the savings
14 bank as collateral security or otherwise.

15 (2) A savings bank, with the written consent of the commis-
16 sioner, may pledge its assets in an amount not in excess of 10%
17 of its total deposits for the purpose of securing the following:

18 (a) Funds belonging to the United States or belonging to or
19 being administered by an officer, instrumentality, or agent of
20 the United States, funds of estates being administered by a fed-
21 eral court under a federal bankruptcy law, and other funds when
22 required or permitted to do so under the laws of the United
23 States or an order of a federal court.

24 (b) Surplus funds of the state held by the state treasurer.

25 (c) Funds of the Mackinac bridge authority, which is
26 declared to be a political subdivision of this state, under Act

1 No. 21 of the Public Acts of the Extra Session of 1950, being
2 sections 254.301 to 254.304 of the Michigan Compiled Laws.

3 (d) Funds of the international bridge authority, which is
4 declared to be a political subdivision of this state, under Act
5 No. 99 of the Public Acts of 1954, being sections 254.221 to
6 254.240 of the Michigan Compiled Laws.

7 (e) Funds on deposit under Act No. 205 of the Public Acts of
8 1941, being sections 252.51 to 252.64 of the Michigan Compiled
9 Laws, providing for limited access highways.

10 (f) Funds on deposit to the credit of the Michigan employ-
11 ment security commission.

12 (g) Funds of the Michigan state housing development author-
13 ity constituting proceeds of the sale of the authority's notes
14 and bonds and repayments of those notes and bonds, under the
15 state housing development authority act of 1966, Act No. 346 of
16 the Public Acts of 1966, being sections 125.1401 to 125.1499c of
17 the Michigan Compiled Laws.

18 (3) A savings bank shall not pledge its assets for the pur-
19 pose of securing funds belonging to any other political subdivi-
20 sion of this state.

21 (4) The requirements, restrictions, and limitations imposed
22 by this section shall not apply to the pledging of an obligation
23 of the United States, direct or fully guaranteed, or both, for
24 the purpose of securing a deposit of the United States when the
25 deposit is established coincidentally with the purchase of an
26 obligation of the United States by or through an institution.

1 (5) A savings bank may pledge its assets to secure
2 liabilities of all of the following types:

3 (a) In the case of member banks, liabilities incurred under
4 the federal reserve act, chapter 6, 38 Stat. 251. In the case of
5 nonmember banks, liabilities incurred through borrowing under the
6 same conditions as are imposed upon members of the federal
7 reserve system by the federal reserve act, chapter 6, 38
8 Stat. 251.

9 (b) In the case of federal home loan bank members, liabili-
10 ties incurred under the federal home loan bank act, chapter 522,
11 47 Stat. 725.

12 (c) Liabilities incurred under former section 202 of title
13 II of the federal farm loan act, chapter 245, 39 Stat. 360.

14 (d) Liabilities incurred on account of a loan made with the
15 express approval of the commissioner under section 433(c).

16 (e) Liabilities incurred on account of borrowings from 1
17 business day to the next under section 19 of the federal reserve
18 act, chapter 6, 38 Stat. 251.

19 (f) Liabilities incurred on account of securities sold under
20 a repurchase agreement.

21 Sec. 509. Except where required or permitted under the fed-
22 eral reserve act, chapter 6, 38 Stat. 251, or the federal home
23 loan bank act, chapter 522, 47 Stat. 725, a savings bank shall
24 not deposit an amount in excess of 10% of the capital and surplus
25 of a stock savings bank, or 10% of the total capital of a mutual
26 savings bank, with any other savings bank, state chartered bank,
27 association, or national bank. A savings bank may deposit an

1 amount not to exceed 15% of the capital and surplus of a stock
2 savings bank, or 15% of the total capital of a mutual savings
3 bank in any legal depository in a reserve city designated by the
4 commissioner.

5 Sec. 510. A transfer of any assets of a savings bank to
6 either its shareholders or creditors made after the commission of
7 an act of insolvency or made in contemplation of insolvency, with
8 a view to preventing the application of its assets in the manner
9 prescribed by this act, or with a view to the preference of 1
10 creditor over another, is null and void.

11 Sec. 511. (1) Except as provided in subsection (2), a sav-
12 ings bank that requires a mortgagor to maintain property or casu-
13 alty insurance as a condition to receiving a mortgage loan shall
14 not require the amount of the property or casualty insurance to
15 be greater than the replacement cost of the mortgaged building or
16 buildings.

17 (2) A savings bank may require an amount of property or
18 casualty insurance that is required of the savings bank as a con-
19 dition of a sale, transfer, or assignment of all or part of the
20 mortgage to a third party. This subsection does not require that
21 the savings bank anticipate a sale, transfer, or assignment at
22 the time the mortgage loan is made.

23 Sec. 512. (1) An overdraft existing for 90 days shall be
24 charged off to the profit and loss account of the savings bank at
25 the expiration of that time.

26 (2) A director or executive officer of a savings bank shall
27 not knowingly overdraw his or her account.

1 (3) All debts due to a savings bank on which interest is
2 past due and unpaid for a period of 6 months, unless the debts
3 are well secured and in process of collection or the debts con-
4 stitute claims against solvent estates in probate, shall be
5 charged off to the reserve for bad debts or the profit and loss
6 account of the savings bank at the expiration of that time.

7 CHAPTER 6

8 RECEIVERSHIPS AND CONSERVATORSHIPS

9 Sec. 601. (1) If a savings bank has refused to pay its
10 deposits or obligations in accordance with the terms under which
11 the deposits or obligations were incurred, or whenever a savings
12 bank becomes insolvent, has refused to submit its books, papers,
13 and records for inspection by the commissioner, appears to the
14 commissioner to be in an unsafe or unsound condition, or the
15 appointment of a conservator is required under section 204(5),
16 the commissioner shall either appoint a conservator under section
17 605 with the attorney general representing the commission, or
18 shall apply to the circuit court for the county in which the sav-
19 ings bank is located for the appointment of a receiver for the
20 savings bank.

21 (2) In a proceeding for the appointment of a receiver, the
22 commissioner shall request that the court appoint the federal
23 deposit insurance corporation as the receiver if the deposits in
24 the savings bank are insured to any extent by that corporation.

25 (3) The court may act upon the application without notice to
26 any person but if at any time it appears to the court that none

1 of the claimed reasons for receivership did in fact exist, the
2 receivership shall be dissolved and the proceedings terminated.

3 (4) If the federal deposit insurance corporation accepts the
4 appointment as receiver, it may act without bond.

5 Sec. 602. (1) Subject to court approval, a receiver may do
6 any of the following:

7 (a) Take possession of the books, records, and assets of the
8 savings bank and collect all debts, dues, and claims belonging to
9 the savings bank.

10 (b) Sue and defend, compromise, and settle all claims
11 involving the savings bank.

12 (c) Sell any and all real and personal property.

13 (d) Exercise all fiduciary functions of the savings bank as
14 of the date of the commencement of the receivership.

15 (e) Pay all expenses of the receivership, which expenses
16 shall be a first charge upon the assets of the savings bank and
17 be fully paid before any final distribution or payment of divi-
18 dends to creditors or shareholders.

19 (f) Pay ratably any and all debts of the savings bank,
20 except that debts not exceeding \$50.00 in amount may be paid in
21 full but the holders of such debts shall not be entitled to
22 interest on the debts.

23 (g) Repay, ratably, any amount which may have been paid in
24 by a shareholder by reason of assessments made upon the stock of
25 the savings bank by order of the commissioner in accordance with
26 this act.

1 (h) Pay, ratably, to the shareholders of the savings bank in
2 proportion to the number of shares held and owned the balance of
3 the net assets of the savings bank after payment or provision for
4 payments as provided under subdivisions (e), (f), and (g).

5 (i) Borrow money-as may be necessary or expedient in aiding
6 the liquidation of the savings bank and to secure the borrowings
7 by the pledge, hypothecation, or mortgage of the assets of the
8 savings bank.

9 (j) Exercise other powers and duties as may be provided by
10 the court under the laws of this state applicable to the appoint-
11 ment of receivers.

12 (2) The receiver from time to time shall report to the com-
13 missioner with respect to all of his or her acts and proceedings
14 in connection with the receivership.

15 Sec. 603. The full and exclusive procedures for the liqui-
16 dation of a savings bank under this act shall be the procedures
17 prescribed in this act and a receiver or other liquidating agent
18 shall not be appointed for such purpose or for any savings bank
19 or its assets and property except as expressly provided in this
20 act.

21 Sec. 604. (1) If a savings bank has been closed and placed
22 in receivership, and the federal deposit insurance corporation
23 pays or makes available for payment the insured deposit liabili-
24 ties of the closed savings bank, the corporation, whether or not
25 it has become receiver of the savings bank, subrogated to all of
26 the rights of the owners of the deposits against the closed
27 savings bank in the same manner and to the same extent as

1 subrogation of the corporation is provided for in the federal
2 reserve act, in the case of the closing of a national banking
3 association.

4 (2) The rights of depositors and other creditors of the
5 closed savings bank shall be determined in accordance with the
6 applicable provisions of the laws of this state.

7 Sec. 605. (1) If any of the grounds set forth in section
8 601 authorizing the appointment of a receiver exist or whenever
9 the commissioner considers it necessary in order to conserve the
10 assets of a savings bank for the benefit of the depositors and
11 other creditors, the commissioner may appoint a conservator for
12 the savings bank and require of him or her a bond and security as
13 the commissioner considers necessary.

14 (2) The commissioner may appoint as conservator 1 of the
15 bank examiners of the bureau or some other competent and disin-
16 terested person. The bureau shall be reimbursed out of the
17 assets of the conservatorship for all sums expended by it in con-
18 nection with the conservatorship as expenses or otherwise, and
19 the funds shall be paid into the revolving fund provided for in
20 section 607.

21 (3) A conservator appointed under this section shall become
22 a member of the bureau. All expenses of a conservatorship shall
23 be paid out of the assets of the savings bank, upon the approval
24 of the commissioner. The expenses shall be a first charge upon
25 the assets and shall be fully paid before any final distribution
26 or payment of dividends to creditors or shareholders.

1 (4) The conservator, under the direction of the
2 commissioner, shall take possession of the books, records, and
3 assets of the savings bank, and take such action as may be neces-
4 sary to conserve the assets of the savings bank pending further
5 disposition of its business as provided by law. The conservator
6 shall have all the rights, powers, and privileges of receivers of
7 banks appointed under this act and shall be subject to the obli-
8 gations and penalties, not inconsistent with this act with
9 respect to conservators, to which receivers are subject. During
10 the time that the conservator remains in possession of the sav-
11 ings bank, the rights of all parties with respect to the savings
12 bank, subject to other provisions of this act with respect to
13 conservators, shall be the same as if a receiver had been
14 appointed. The conservator may execute the discharge of any real
15 estate mortgage held as part of the assets of the savings bank.

16 (5) While a savings bank is in the hands of the conservator
17 appointed by the commissioner, the commissioner may require the
18 conservator to set aside and make available for withdrawal by
19 depositors and payment to other creditors, on a ratable basis,
20 such amounts as in the opinion of the commissioner may be used
21 safely for that purpose. The commissioner may permit the conser-
22 vator to receive deposits. Deposits received while the savings
23 bank is in the hands of the conservator shall not be subject to
24 any limitation as to payment or withdrawal. The deposits and any
25 new assets acquired on account of the deposits shall be segre-
26 gated and held especially for the new deposits and not be used to
27 liquidate any indebtedness of the savings bank existing at the

1 time that a conservator was appointed or any subsequent
2 indebtedness incurred for the purpose of liquidating any indebt-
3 edness of the savings bank existing at the time the conservator
4 was appointed. Deposits received while the savings bank is in
5 the hands of the conservator shall be kept on hand in cash,
6 invested in the direct obligations of the United States, or
7 deposited in banks designated by the commissioner.

8 (6) With the prior approval of the commissioner, the conser-
9 vator of a savings bank may borrow money as necessary or expedi-
10 ent in aiding the operation, reorganization, or liquidation of
11 the savings bank, including the payment of liquidating dividends,
12 and may secure the loans by the pledge, hypothecation, or mort-
13 gage of the assets of the savings bank.

14 (7) If the commissioner is satisfied that it may be done
15 safely and that it would be in the public interest, he or she may
16 terminate the conservatorship and permit the savings bank to
17 resume the transaction of its business subject to such terms,
18 conditions, restrictions, and limitations as he or she may
19 prescribe.

20 Sec. 606. (1) After 15 days from the date upon which the
21 affairs of a savings bank have been turned back to its board of
22 directors by the conservator, either with or without being reor-
23 ganized, the provisions of section 605(5) with respect to the
24 segregation of deposits shall no longer be effective.

25 (2) Before the conservator turns back the affairs of the
26 savings bank to its board of directors, he or she shall publish a
27 notice in form approved by the commissioner, stating the date on

1 which the affairs of the savings bank will be returned to its
2 board of directors and that the provisions of section 605(5) will
3 not be effective after 15 days from that date. On the date of
4 the publication of the notice, the conservator shall immediately
5 send to every person who deposited money in the savings bank
6 after the appointment of a conservator, a copy of the notice by
7 mail addressed to the last known address of the person as shown
8 by the records of the savings bank. The conservator shall send
9 similar notice in like manner to every person making deposit in
10 the savings bank under section 605(5) after the date of the news-
11 paper publication and before the time when the affairs of the
12 bank are returned to its directors.

13 Sec. 607. (1) The commissioner may issue orders or declara-
14 tory rulings he or she deems necessary in order to carry out the
15 provisions of this chapter as to receivers and conservators.

16 (2) All compensation and expenses allowed to reimburse the
17 bureau when a bank examiner acts as receiver or conservator and
18 all expenses for state supervision of receiverships and conserva-
19 torships under this act shall be turned over to the state trea-
20 surer and credited to a revolving fund to be held for the bureau
21 to reimburse the bureau in connection with the provisions of this
22 act with respect to receivers and conservators of savings banks.

23 Sec. 608. (1) In a reorganization of a savings bank under a
24 plan of a kind that requires the consent of depositors and other
25 creditors or of shareholders or of both depositors and other
26 creditors and shareholders, the reorganization shall become
27 effective when both of the following occur:

1 (a) The commissioner is satisfied that the plan of
2 reorganization is fair and equitable as to all depositors, other
3 creditors and shareholders and is in the public interest and has
4 approved the plan subject to such conditions, restrictions, and
5 limitations as he or she may require.

6 (b) After reasonable notice of the reorganization as deter-
7 mined by the commissioner, depositors and other creditors of the
8 savings bank representing at least 75% in amount of its total
9 deposits and other liabilities as shown by the books of the sav-
10 ings bank or shareholders owning at least 2/3 of its outstanding
11 capital as shown by the books of the savings bank or both deposi-
12 tors and other creditors representing at least 75% in amount of
13 the total deposits and other liabilities and shareholders owning
14 at least 2/3 of its outstanding capital as shown by the books of
15 the savings bank shall have consented in writing to the plan of
16 reorganization. Claims of depositors or other creditors which
17 will be satisfied in full under the plan of reorganization shall
18 not be included among the total deposits and other liabilities of
19 the savings bank in determining the 75% of total deposits. The
20 term "reorganization" as used in this section may be construed to
21 include the establishment of a new savings bank in conformity
22 with a plan of reorganization.

23 (2) When the reorganization becomes effective, all books,
24 records, and assets of the savings bank shall be disposed of in
25 accordance with the plan and the affairs of the savings bank
26 shall be conducted by its board of directors in the manner

1 provided by the plan and under the conditions, restrictions, and
2 limitations that may have been prescribed by the commissioner.

3 (3) In a reorganization which has been approved and become
4 effective, all depositors and other creditors and shareholders of
5 the savings bank, whether or not they have consented to the plan
6 or reorganization, shall be subject to and bound by its provi-
7 sions and claims of all depositors and other creditors shall be
8 treated as if they had consented to the plan or reorganization.
9 The state or any department, agency, or political subdivision of
10 the state holding a claim against the savings bank is authorized
11 to participate in a plan or reorganization as any other creditor
12 and shall be subject to and bound by its provisions as any other
13 creditor.

14 CHAPTER 7

15 CONSOLIDATIONS, MERGERS, AND CONVERSIONS

16 Sec. 701. (1) Subject to approval by the commissioner, a
17 savings bank may consolidate with any number of consolidating
18 organizations to form a consolidated savings bank.

19 (2) The approval of the commissioner shall be based on an
20 examination or other appropriate analysis of each consolidating
21 organization and the agreement of consolidation. A consolidation
22 shall not be made to defeat or defraud any of the creditors of
23 any of the consolidating organizations.

24 (3) A majority of the directors of each organization propos-
25 ing to consolidate may enter into an agreement, signed by them,
26 or by their designated representative or representatives, and
27 under the seals of the respective organizations, prescribing the

1 terms and conditions of consolidation, the mode of carrying the
2 consolidation into effect and stating other facts required or
3 permitted by this act and other applicable law that are to be set
4 out in the articles, as can be stated in the case of a consolida-
5 tion, to be stated in such altered form as the circumstances of
6 the case require, as well as the manner of converting the shares
7 of each of the consolidating organizations, into shares of the
8 consolidated organization, with other details and provisions as
9 are considered necessary.

10 (4) The proposed consolidation agreement shall be submitted
11 to the members or shareholders of each consolidating organiza-
12 tion, at a separate meeting called by the directors for the sole
13 purpose of considering the agreement. A notice indicating the
14 time, place, and purpose of the meeting shall be given by publi-
15 cation at least once a week for 4 consecutive weeks preceding the
16 date of the meeting. A copy of the notice shall also be mailed
17 to each member or shareholder of each consolidating organization
18 at his or her last known address as appears from the records of
19 the consolidating organizations, by registered or certified mail,
20 at least 10 days prior to the date of the meeting. Notice by
21 publication or otherwise shall not be required if it is waived.
22 At the meeting the proposed consolidation agreement shall be con-
23 sidered and a vote by ballot, in person or by proxy, taken for
24 the adoption or rejection of the agreement. At the meeting each
25 share of stock shall entitle the holder to 1 vote. If the votes
26 of members or shareholders of each consolidating organization
27 representing 2/3 of the total number of shares of each class of

1 each consolidating organization's outstanding capital stock, or
2 2/3 of eligible voting members of a mutual association, are cast
3 for the adoption of the agreement, that fact shall be certified
4 on the agreement by the cashier or assistant cashier, secretary
5 or assistant secretary of each of the consolidating
6 organizations. If the agreement is adopted and certified, it
7 shall be acknowledged by the president or a vice president of
8 each of the consolidating organizations, before any officer
9 authorized to take acknowledgment of deeds, to be the respective
10 act, deed, and agreement of each of the consolidating
11 organizations. If a bank, out-of-state bank, national bank,
12 association, or savings bank is a consolidating organization and
13 approval is required by the laws of another state or of the
14 United States, that organization shall furnish a certified copy
15 of consent or approval of the appropriate state or federal regu-
16 lator of the consolidation to the commissioner. The consolida-
17 tion agreement required by this section shall be filed with the
18 commissioner who shall certify upon the agreement the date it was
19 filed. The filing with the commissioner shall be the act of con-
20 solidation of the consolidating organizations. The consolidation
21 agreement or a copy certified by the commissioner is evidence of
22 the agreement and act of consolidation of the organizations and
23 the observance and performance of all necessary acts and condi-
24 tions precedent to the consolidation. A bank holding company or
25 thrift holding company that is the sole shareholder of all of the
26 outstanding issued stock of a savings bank, bank, out-of-state
27 bank, national bank, or association that is a consolidating

1 organization in a proposed consolidation may waive the
2 shareholder meeting requirement of this subsection.

3 (5) In effecting a consolidation, stock of the consolidated
4 savings bank may be issued in accordance with this act and as
5 provided by the terms of the consolidation agreement free from
6 any preemptive rights of the shareholders of the respective con-
7 solidating organizations.

8 Sec. 702. A savings bank may consolidate with any number of
9 consolidating organizations to form a consolidated organization
10 in accordance with the laws under which the consolidated organi-
11 zation is chartered, if all of the following apply:

12 (a) Consolidation is permitted by the laws under which each
13 consolidating organization is organized and the appropriate regu-
14 lator or regulators approve the consolidation. This subdivision
15 does not apply after May 31, 1997.

16 (b) The consolidating organizations provide notice to the
17 commissioner by filing a copy of the application for consolida-
18 tion within 10 days after the date the application is filed with
19 the appropriate federal regulator.

20 (c) The consolidated organization complies with section
21 703(3) with respect to notice of consolidation, but that notice
22 is limited to a court, public tribunal, agency, or officer of
23 this state.

24 Sec. 703. (1) When filing an approval of the consolidation
25 agreement as required by section 701 have been completed, the
26 corporate existence of each consolidating organization is merged
27 into and continued in the consolidated savings bank. To the

1 extent authorized by this act, the consolidated savings bank
2 possesses all the rights, interests, privileges, powers, and
3 franchises and is subject to all the restrictions, disabilities,
4 liabilities, and duties of each of the consolidating
5 organizations. The title to all property, real, personal, and
6 mixed is transferred to the consolidated savings bank, and shall
7 not revert or be in any way impaired by reason of this act.

8 (2) A consolidated savings bank holds and enjoys the same
9 and all rights of property, franchises, and interests including
10 appointments, designations, and nominations and all other rights
11 and interests in any fiduciary capacity, in the same manner and
12 to the same extent as those rights and interests were held or
13 enjoyed by each consolidating organization at the time of the
14 consolidation. If a consolidating organization at the time of
15 consolidation was acting under appointment of any court in a
16 fiduciary capacity, the consolidated savings bank is subject to
17 removal by a court of competent jurisdiction.

18 (3) A consolidated savings bank shall file with each court
19 or other public tribunal, agency, or officer in any state by
20 which any of the consolidating organizations shall have been
21 appointed in the capacity of fiduciary or agent, and in the court
22 file of each estate, suit, or any other proceeding in which any
23 of them has been acting, an affidavit setting forth the fact of
24 consolidation, the name of each consolidating organization, the
25 name of the consolidated savings bank, the location of its main
26 office, and the amount of its capital and surplus. This
27 subsection does not require filing of an affidavit related to any

1 consolidating organization that after the consolidation retains
2 the same corporate name, charter, and main office location.

3 Sec. 704. (1) Whether it maintains a presence in this
4 state, a consolidated organization or any of its successors in
5 interest are subject to service of process in a proceeding in
6 this state for enforcement of any obligation incurred in this
7 state by a consolidating organization that is or was a party to a
8 consolidation.

9 (2) An action or proceeding by or against a consolidating
10 organization in a court or any other public tribunal of this
11 state may be prosecuted to judgment, as if consolidation had not
12 taken place or the consolidated organization may be substituted
13 in the place of any consolidating organization whose existence
14 has ceased.

15 Sec. 705. (1) A savings bank, an out-of-state bank, or
16 national bank that consolidates its operations with, or purchases
17 the assets or 1 or more branches of, another bank, out-of-state
18 bank, national bank, association, or savings bank may operate the
19 consolidated or acquired bank, out-of-state bank, national bank,
20 association, or savings bank branch or branches located in this
21 state as a branch or branches of the consolidated or acquired
22 savings bank.

23 (2) A bank, out-of-state bank, national bank, association,
24 or savings bank operating a branch in this state as the result of
25 a consolidation or purchase of assets or a branch or branches
26 under this act shall provide notice of that operation to the

1 commissioner within 30 days after the effective date of the
2 consolidation or purchase.

3 Sec. 706. (1) As used in this section:

4 (a) "Bank holding company" means a company as defined in the
5 bank holding company act of 1956, chapter 240, 70 Stat. 133, or a
6 company defined as a savings and loan holding company in the home
7 owners' loan act of 1933, chapter 64, 48 Stat. 128, that is not a
8 savings bank, national banking association, or association and
9 that is a bank holding company approved by the board of governors
10 of the federal reserve system pursuant to section 3(d) of the
11 bank holding company act of 1956, chapter 240, 70 Stat. 134,
12 12 U.S.C. 1842 or will become such an approved bank holding com-
13 pany prior to or upon the completion of the consolidation pro-
14 vided in this section.

15 (b) "Existing association" means a stock association engaged
16 in the savings and loan business or federal savings bank business
17 prior to the consolidation under this section.

18 (c) "Existing bank" means a savings bank, national banking
19 association, or state chartered bank engaged in the business of
20 banking prior to the consolidation under this section.

21 (d) "New bank" means a savings bank not engaged in the busi-
22 ness of banking prior to the consolidation under this section.

23 (2) Notwithstanding any other section of this act:

24 (a) Persons as provided in section 301 may organize and
25 incorporate as the incorporator or incorporators a new bank
26 having its principal office in the same city or village as the
27 principal office of an existing bank or existing association in

1 the manner specified in section 302, but without regard to
2 section 302(2) and (3)(b), (c), and (e), and section 304, if the
3 new bank is organized for the sole purpose of effecting its con-
4 solidation under section 701 with an existing bank or existing
5 association having its principal office in the same city or vil-
6 lage as the new bank and if upon completion of the consolidation
7 a bank holding company becomes the owner of all of the outstand-
8 ing voting shares of the consolidated organization, other than
9 shares necessary to qualify directors. The new bank and the
10 existing bank may consolidate under the charter of either bank.
11 The new bank and the existing association shall consolidate under
12 the charter of the new bank and sections 701, 703, and 705 are
13 applicable with respect to the consolidation except that the
14 agreement of consolidation may provide that shares of either or
15 both the consolidating organizations, in lieu of being converted
16 into shares of the consolidated organization, will be converted
17 into shares or other securities of the bank holding company.

18 (b) A shareholder of the existing bank or existing associa-
19 tion who votes against the consolidation, or who has given notice
20 in writing to that bank or association at or prior to the meeting
21 called for the purpose of considering the agreement of consolida-
22 tion that he or she dissents from the consolidation, is entitled
23 to receive in cash from the consolidated organization the fair
24 value of all shares held by him or her, if and when the consoli-
25 dation is consummated, upon written request made to the consoli-
26 dated organization at any time within 30 days after the date of
27 consummation of the consolidation, accompanied by the surrender

1 of his or her stock certificates. Upon the filing of the written
2 request and the surrender of stock certificates, the shareholder
3 shall cease to have any of the rights of a shareholder except the
4 right to be paid the fair value of his or her shares. The
5 request having been made, shall not be withdrawn except with the
6 written consent of the consolidated organization. The fair value
7 of the shares shall be determined, as of the date on which the
8 meeting of shareholders of the existing bank or existing associa-
9 tion was held adopting the agreement of consolidation, by a qual-
10 ified and independent appraiser selected by the commissioner upon
11 written application filed by a dissenting shareholder entitled to
12 receive the fair value of his or her shares, or by the consoli-
13 dated organization. The appraiser selected shall file a written
14 report of his or her appraisal with the commissioner, who in turn
15 shall forward copies to all interested parties. The valuation
16 determined by the appraiser is final and binding on all parties
17 as to the fair value of the shares. The consolidated organiza-
18 tion shall pay to each dissenting shareholder entitled the fair
19 value of his or her shares within 30 days following the receipt
20 of the written report of the appraiser. The fees and expenses of
21 the appraisal, which shall be approved by the commissioner, shall
22 be paid by the consolidated organization. The agreement of con-
23 solidation shall provide the manner of disposing of the shares of
24 the existing bank or existing association surrendered by the dis-
25 senting shareholders.

26 (c) The consolidated organization, whether it is the new
27 bank or the existing bank, shall have the right, notwithstanding

1 any of the requirements, restrictions, and limitations of section
2 417, or any other provision of law, to retain and continue to
3 operate or to establish and operate as its principal office the
4 principal office of the existing bank, and as its branches all
5 branches of the existing bank, that were legally operating imme-
6 diately prior to the consolidation or merger, whether the princi-
7 pal office or the branch or branches could, at the time the con-
8 solidation or merger becomes effective, have been established or
9 reestablished consistently with the requirements, restrictions,
10 and limitations of section 417, or any other provision of law.
11 For the purposes of this section, consolidation and merger are
12 interchangeable and each means and includes the consolidation or
13 merger of savings banks, federal or state savings and loan asso-
14 ciations, federal savings banks, state chartered banks, or of
15 national banking associations in any manner provided by this act
16 or by the national bank laws.

17 Sec. 707. (1) As used in this section:

18 (a) "Consolidation agreement" means an agreement entered
19 into among an existing bank or an existing association, a new
20 bank, and a new holding company that provides both of the
21 following:

22 (i) That the existing bank or existing association and the
23 new bank will be consolidated or merged.

24 (ii) That upon consummation of the consolidation or merger,
25 the shares of capital stock of the existing bank or existing
26 association will be converted into or exchanged for shares of the
27 capital stock or other securities of the new holding company.

1 (b) "Existing association" means a stock association that is
2 a party to a consolidation agreement and is engaged in the sav-
3 ings and loan business prior to the consolidation or merger pro-
4 vided for in the consolidation agreement.

5 (c) "Existing bank" means a savings bank, national banking
6 association, or state chartered bank that is a party to a consol-
7 idation agreement and is engaged in the business of banking prior
8 to the consolidation or merger provided for in the consolidation
9 agreement.

10 (d) "New bank" means a savings bank that is a party to a
11 consolidation agreement and is not engaged in the business of
12 banking prior to the consummation of the consolidation or merger
13 provided for in the consolidation agreement.

14 (e) "New holding company" means a corporation that is not a
15 savings bank, association, or national banking association and as
16 to which all of the following apply:

17 (i) The corporation is a party to a consolidation
18 agreement.

19 (ii) Prior to its acquisition of an existing bank or exist-
20 ing association under the consolidation agreement, the corpora-
21 tion does not have control of a bank, an association, or national
22 banking association and has not transacted any business except
23 business incidental to its organization and to the entering into,
24 and performance of, the consolidation agreement.

25 (iii) Upon consummation of the consolidation or merger pro-
26 vided for in the consolidation agreement, the corporation will

1 become a bank holding company as defined in section 2 of the bank
2 holding company act of 1956, 12 U.S.C. 1841.

3 (iv) Immediately after its acquisition of an existing bank
4 or existing association pursuant to the consolidation agreement,
5 the corporation will-not have control of more than 1 savings
6 bank.

7 (v) Prior to the acquisition of an existing bank or existing
8 association under the consolidation agreement, the corporation is
9 not, and immediately after acquisition of control of the existing
10 bank or existing association will not be, controlled by a bank
11 holding company as defined in section 2(a)(2) of the bank holding
12 company act of 1956, 12 U.S.C. 1841.

13 (f) "Control" means control as defined in section 2 of the
14 bank holding company act of 1956, 12 U.S.C. 1841.

15 (2) A new holding company may apply to the commissioner for
16 approval of the terms and conditions of the issuance of the
17 shares or other securities of the new holding company into which
18 the shares of an existing bank or existing association are to be
19 converted, or for which the shares of the existing bank or exist-
20 ing association are to be exchanged, under a consolidation agree-
21 ment, and for approval of the terms and conditions of the conver-
22 sion or exchange. The application for approval shall be in a
23 form, contain information, and be accompanied by documents as
24 shall be required by the commissioner. Within 30 days after the
25 application is filed, the commissioner shall conduct a hearing
26 upon the fairness of the terms and conditions at which all
27 persons to whom it is proposed to issue the securities in the

1 conversion or exchange shall have the right to appear. Within 20
2 days after the hearing, the commissioner shall either approve or
3 disapprove the terms and conditions of the issuance and of the
4 conversion or exchange. This subsection shall not be construed
5 to require a new holding company to apply for or obtain the
6 approval of the commissioner of the terms and conditions of the
7 issuance and conversion or exchange of securities provided for in
8 a consolidation agreement or to make unlawful any transaction
9 that is lawful without regard to this subsection.

10 Sec. 708. (1) As used in this section:

11 (a) "Bank holding company" means a bank holding company as
12 defined in section 2 of the bank holding company act of 1956,
13 12 U.S.C. 1841, or a savings and loan holding company as defined
14 in 12 U.S.C. 1467a.

15 (b) "Banking institution" means an entity that is, or is
16 eligible to become, an "insured bank" as defined in section 3 of
17 the federal deposit insurance act, chapter 967, 64 Stat. 873,
18 12 U.S.C. 1813.

19 (c) "Consumer loan" means credit offered or extended by a
20 lender primarily for personal, family, or household purposes,
21 except for a loan, mortgage, or advance secured by a first lien
22 on residential real property or by a first lien on a mobile
23 home.

24 (d) "Lender" means a banking institution or a subsidiary of
25 a bank holding company.

26 (e) "Michigan banking institution" means a banking
27 institution whose principal place of business is located in this

1 state and is incorporated under this act or the banking code of
2 1969, Act No. 319 of the Public Acts of 1969, being
3 sections 487.301 to 487.598 of the Michigan Compiled Laws, and a
4 national bank whose principal place of business is located in
5 this state.

6 (f) "Out-of-state bank holding company" means a bank holding
7 company located in a state other than this state.

8 (g) "Regional bank holding company" means a bank holding
9 company that is located in Illinois, Indiana, Minnesota, Ohio, or
10 Wisconsin, other than a bank holding company that is controlled,
11 directly or indirectly, by a bank holding company that is not
12 itself a regional bank holding company or is not located in this
13 state.

14 (h) "Subsidiary" means a subsidiary as defined in section 2
15 of the bank holding company act of 1956, 12 U.S.C. 1841, or as
16 defined in 12 U.S.C. 1467a.(a)(1)(G).

17 (i) A bank holding company is located in the state in which
18 the operations of such bank holding company's banking subsidi-
19 aries were principally conducted.

20 (j) A banking institution is located in the state in which
21 its principal place of business is located.

22 (k) A bank holding company controls a banking institution or
23 another bank holding company if it has control as defined in
24 section 2(a)(2) of the bank holding company act of 1956,
25 12 U.S.C. 1841, or as defined in 12 U.S.C. 1467a.(a)(2).

26 (2) With the approval of the commissioner, a regional bank
27 holding company may acquire, directly or indirectly, ownership or

1 control of the voting shares of the capital stock of any number
2 of Michigan banking institutions if all of the following condi-
3 tions are met:

4 (a) The commissioner determines that the laws of the state
5 in which the regional bank holding company is located authorize a
6 bank holding company located in this state to acquire, directly
7 or indirectly, ownership or control of the voting shares of the
8 capital stock of 1 or more banking institutions located in that
9 state, under conditions that are not unduly restrictive.

10 (b) The commissioner determines that an acquisition
11 described in subdivision (a) would not restrict the powers or
12 privileges of a banking institution acquired in that state.

13 (c) The commissioner does not determine that the acquisition
14 is likely to impair the safety and soundness of the Michigan
15 banking institution to be acquired or of a Michigan banking
16 institution that is already controlled by the regional bank hold-
17 ing company.

18 (d) The commissioner determines that the applicant has com-
19 plied with the requirements of subsections (11) and (12).

20 (3) A regional bank holding company desiring to make an
21 acquisition under subsection (2) shall file an application with
22 the commissioner. The application shall be in a form and contain
23 the information considered necessary by the commissioner. The
24 commissioner shall approve the application if the commissioner
25 determines that the applicant is a regional bank holding company
26 and that all of the conditions set forth in subsection (2) are
27 met.

1 (4) With the approval of the commissioner, an out-of-state
2 bank holding company may acquire, directly or indirectly, owner-
3 ship or control of the voting shares of the capital stock of any
4 number of Michigan banking institutions if all of the following
5 conditions are met:

6 (a) The commissioner determines that the laws of the state
7 in which the out-of-state bank holding company is located autho-
8 rize a bank holding company located in this state to acquire,
9 directly or indirectly, ownership or control of the voting shares
10 of 1 or more banking institutions in that state, under conditions
11 that are not unduly restrictive.

12 (b) The commissioner determines that an acquisition
13 described in subdivision (a) would not restrict the powers or
14 privileges of a banking institution acquired in that state.

15 (c) The commissioner does not determine that the acquisition
16 is likely to impair the safety and soundness of the Michigan
17 banking institution to be acquired or of a Michigan banking
18 institution that is already controlled by the out-of-state bank
19 holding company.

20 (d) The commissioner determines that the applicant has com-
21 plied with the requirements of subsections (11) and (12).

22 (5) An out-of-state bank holding company desiring to make an
23 acquisition under subsection (4) shall file an application with
24 the commissioner. The application shall be in a form and contain
25 the information considered necessary by the commissioner. The
26 commissioner shall approve the application if the commissioner
27 determines that the applicant is an out-of-state bank holding

1 company and that all of the conditions set forth in
2 subsection (4) are met.

3 (6) With the approval of the commissioner, a bank holding
4 company located in this state may acquire, directly or indirect-
5 ly, ownership or control of the voting shares of the capital
6 stock of a banking institution located outside this state. A
7 bank holding company desiring to make an acquisition under this
8 subsection shall file an application with the commissioner. The
9 commissioner shall approve the application if the bank holding
10 company meets the requirements of subsections (11) and (12).

11 (7) The commissioner shall make a determination required by
12 subsection (3), (5), or (6) within 100 days after acceptance of
13 the application.

14 (8) An acquisition made under this section shall not affect
15 the powers or privileges of the acquired banking institution.

16 (9) This section shall not be construed as impairing or
17 affecting the authority of a bank holding company that is located
18 in this state and is not controlled by an out-of-state bank hold-
19 ing company to acquire control of a Michigan banking
20 institution.

21 (10) This section shall not be construed as authorizing any
22 banking subsidiary or any other person, firm, or corporation to
23 operate a branch or otherwise to engage in the business of bank-
24 ing or to act as fiduciary in this state other than as provided
25 in this act.

26 (11) In connection with an application filed by a bank
27 holding company, under subsection (3), (5), or (6), the

1 applicant, as a condition of the approval, shall sign an
2 agreement that is in substantially the following form:
3 "Applicant and all its subsidiaries, wherever located, when
4 making a consumer loan to a resident of this state who does not
5 physically travel out of this state in order to obtain the con-
6 sumer loan, agrees to comply with the laws of this state govern-
7 ing the maximum rate of interest that may be charged and other
8 provisions, relating to that type of consumer loan, that protect
9 consumers. This written agreement does not apply to unsecured
10 open-end credit extended by a banking institution not located in
11 this state or to any other subsidiaries of the applicant not
12 located in this state, to the extent that federal law may make
13 such provisions of Michigan law inapplicable to such credit
14 extended by lenders. This written agreement shall not require a
15 Michigan banking institution that is a subsidiary of the appli-
16 cant to comply with the laws of this state governing the maximum
17 rate of interest that may be charged and other provisions, relat-
18 ing to that type of consumer loan, that protect consumers if fed-
19 eral law is enacted to preempt any of the provisions of the laws
20 of this state for a consumer loan made to a resident of this
21 state by the Michigan banking institution, but noncompliance
22 shall be limited to the specific extent of the preemption.
23 Nothing in this agreement shall exempt the applicant or any of
24 its subsidiaries from complying with Michigan law to the extent
25 that the lender is otherwise required to comply with Michigan
26 law." Any material deviation from the form of the agreement
27 shall be by rule promulgated under the administrative procedures

1 act of 1969, Act No. 306 of the Public Acts of 1969, being
2 sections 24.201 to 24.328 of the Michigan Compiled Laws. A rule
3 promulgated under this subsection shall not add to or delete any
4 of the substantive provisions provided in this subsection.

5 (12) In connection with an application filed by a bank hold-
6 ing company under subsection (3), (5), or (6), the commissioner
7 shall assess the composite record of the bank subsidiaries of the
8 bank holding company in meeting the credit needs of the communi-
9 ties in the state in which the bank subsidiaries are located,
10 including low and moderate income neighborhoods, consistent with
11 the safe and sound operation of the bank subsidiaries of the bank
12 holding company. In assessing the record of the bank subsidi-
13 aries of the applicant, the commissioner shall consider the fac-
14 tors considered by the appropriate federal financial supervisory
15 agency under regulations promulgated under the community rein-
16 vestment act of 1977, title VIII of Public Law 95-128,
17 12 U.S.C. 2901. The commissioner shall request the applicant to
18 supply the commissioner with information and disclosures prepared
19 by the applicant in compliance with the community reinvestment
20 act of 1977, and regulations promulgated under that act, and a
21 copy of the most recent assessment of the bank subsidiaries of
22 the applicant conducted by the appropriate federal financial
23 supervisory agency under the community reinvestment act. In
24 making the request, the commissioner shall give attention to the
25 objective of minimizing the paperwork burdens of banking
26 organizations. The commissioner may seek to obtain from the
27 appropriate federal financial supervisory agency copies of

1 relevant information in the possession of the applicable agency,
2 that may bear upon the record of the bank subsidiaries of the
3 applicant in meeting the credit needs of their entire communi-
4 ties, including low and moderate income neighborhoods, consistent
5 with the safe and sound operation of the bank subsidiaries, to
6 make the assessment provided for in this subsection. This sub-
7 section shall not authorize the commissioner to make an on-site
8 examination of a bank, and shall not authorize the commissioner
9 to make an on-site examination of a state chartered bank for the
10 purpose of assessing the record of the bank subsidiaries of the
11 applicant.

12 (13) If a lender that is not located in this state take a
13 security interest on a consumer loan, and charges a rate of
14 interest in excess of the rate permitted by the laws of this
15 state or otherwise violates a provision of the laws of this state
16 relating to that type of consumer loan that protects consumers,
17 such security interest shall not be enforceable in this state,
18 unless the lender shows by a preponderance of evidence that the
19 violation was not intentional and resulted from a bona fide error
20 notwithstanding the maintenance of procedures reasonably adopted
21 to avoid such error. Examples of bona fide error include, but
22 are not limited to, clerical, calculation, computer malfunction
23 and programming, and printing errors. An error of legal judgment
24 by a lender is not a bona fide error. This subsection shall not
25 apply if the consumer is a resident of this state who physically
26 travels out of this state in order to obtain the consumer loan.

1 Sec. 709. (1) Upon the affirmative votes of the
2 shareholders representing 2/3 of the total number of shares of
3 each class of its outstanding capital stock, a savings bank may
4 be converted under the laws of this state into a stock associa-
5 tion or under the laws of the United States into a national bank-
6 ing association or federal savings bank.

7 (2) The conversion of a savings bank into a stock associa-
8 tion or a national banking association shall not release the sav-
9 ings bank from its obligations to pay and discharge all the
10 liabilities created by law or incurred by it before becoming a
11 stock association or a national banking association or any tax
12 imposed by the laws of this state up to the date of its becoming
13 a stock association or a national banking association in propor-
14 tion to the time that has elapsed since the last preceding pay-
15 ment or any assessment, penalty, or forfeiture imposed or
16 incurred under the laws of this state up to the date of its
17 becoming a stock association or a national banking association.
18 No conversion shall be made to defeat or defraud any of the cred-
19 itors of the savings bank.

20 (3) Certified copies of all proceedings by the directors and
21 shareholders of the stock association or savings bank shall be
22 filed with the commissioner in triplicate and in addition, the
23 savings bank shall furnish a certified copy of consent or
24 approval of the comptroller of the currency or office of thrift
25 supervision to the conversion if the consent or approval is
26 required by federal law. One copy of the proceedings shall be
27 filed with the bureau and the commissioner shall certify and

1 forward 1 copy of the proceedings to the county clerk of the
2 county in which the converted savings bank is located and 1 to
3 the corporation division, department of treasury.

4 (4) Upon the affirmative votes of 2/3 of the total member-
5 ship of a mutual savings bank, the mutual savings bank may be
6 converted under the laws of this state into a mutual state sav-
7 ings and loan association or under the laws of the United States
8 into a mutual federal savings and loan association or federal
9 savings bank.

10 (5) The conversion of a mutual savings bank into a state or
11 federal mutual savings and loan association shall not release the
12 mutual savings bank from its obligations to pay and discharge all
13 the liabilities created by law or incurred by it before becoming
14 a state or federal savings and loan association or any tax
15 imposed by the laws of this state up to the date of its becoming
16 a state or federal savings and loan association in proportion to
17 the time that has elapsed since the last preceding payment or any
18 assessment, penalty, or forfeiture imposed or incurred under the
19 laws of this state up to the date of its becoming a state or fed-
20 eral savings and loan association. No conversion shall be made
21 to defeat or defraud any of the creditors of the mutual savings
22 bank.

23 (6) Certified copies of all proceedings by the members of
24 the mutual savings bank shall be filed with the commissioner in
25 triplicate, and in addition the mutual savings bank shall furnish
26 a certified copy of consent or approval of the office of thrift
27 supervision to the conversion if the consent or approval is

1 required by federal law. One copy of the proceedings shall be
2 filed with the bureau and the commissioner shall certify and for-
3 ward 1 copy of the proceedings to the county clerk of the county
4 in which the converted mutual savings bank is located.

5 Sec. 710. (1) With the approval of the commissioner and
6 upon the affirmative votes of the shareholders representing 2/3
7 of the total number of shares of each class of its outstanding
8 capital stock, a national banking association, federal savings
9 bank, federal savings and loan association, or other federally
10 chartered shareholder-owned financial institution doing business
11 in this state and having an unimpaired capital and surplus suffi-
12 cient to entitle it to become a savings bank under the provisions
13 of existing laws of this state may be converted into a savings
14 bank if the conversion is not in contravention of any laws of the
15 United States. In such case, the articles of incorporation may
16 be executed by a majority of the directors of the national bank-
17 ing association, federal savings bank, federal savings and loan
18 association, or other federally chartered financial institution.
19 A majority of the directors, after executing the articles of
20 incorporation, shall have the power to execute all other papers
21 and to do whatever may be required to complete its organization
22 as a savings bank.

23 (2) The shares of the savings bank may continue to be for
24 the same amount each as they were before the conversion, and the
25 directors may continue to be directors of the savings bank until
26 others have been elected or appointed under the laws of this
27 state.

1 (3) The approval of the commissioner shall be based on an
2 examination of the national banking association, federal savings
3 bank, federal savings and loan association, or other federally
4 chartered financial institutions and of the proceedings had by
5 its directors and shareholders with respect to the conversion.

6 (4) A conversion shall not be made to defeat or defraud any
7 of the creditors of the national banking association, federal
8 savings bank, federal savings and loan association, or other fed-
9 erally chartered financial institution.

10 (5) Subject to conditions as he or she may prescribe, the
11 commissioner may permit the converted savings bank to retain and
12 carry, at a value determined by the commissioner, assets of the
13 converting national banking association, federal savings bank,
14 federal savings and loan association, or other federally
15 chartered financial institution as do not conform to the legal
16 requirements relative to assets acquired and held by savings
17 banks.

18 Sec. 711. (1) With the approval of the commissioner and
19 upon the affirmative vote of shareholders representing more than
20 50% of the total number of shares of each class of its outstand-
21 ing capital stock, a state chartered commercial bank, state
22 chartered savings and loan association, or other state chartered
23 shareholder-owned financial institution having an unimpaired cap-
24 ital and surplus sufficient to entitle it to become a savings
25 bank under the provisions of existing laws of this state may be
26 converted into a savings bank. In such case, the articles of
27 incorporation may be executed by a majority of the directors of

1 the state chartered commercial bank, state chartered savings and
2 loan association, or other state chartered financial
3 institution. A majority of the directors, after executing the
4 articles of incorporation, may execute all other papers and do
5 whatever may be required to complete its organization as a sav-
6 ings bank.

7 (2) The shares of the savings bank may continue to be for
8 the same amount each as they were before the conversion, and the
9 directors may continue to be directors of the savings bank until
10 others have been elected or appointed under the laws of this
11 state.

12 (3) The approval of the commissioner shall be based on an
13 examination of the state chartered commercial bank, state
14 chartered savings and loan association, or other state chartered
15 financial institution and of the proceedings had by its directors
16 and shareholders with respect to the conversion.

17 (4) A conversion shall not be made to defeat or defraud any
18 of the creditors of the state chartered commercial bank, state
19 chartered savings and loan association, or other state chartered
20 financial institution.

21 (5) Subject to conditions as he or she may prescribe, the
22 commissioner may permit the converted savings bank to retain and
23 carry, at a value determined by the commissioner, assets of the
24 converting state chartered commercial bank, state chartered sav-
25 ings and loan association, or other state chartered financial
26 institution which do not conform to the legal requirements
27 relative to assets acquired and held by savings banks.

1 Sec. 712. (1) With the approval of the commissioner and
2 upon the affirmative votes of 2/3 of the total membership of a
3 mutual federal savings and loan association, mutual federal sav-
4 ings bank, or other member-owned federally chartered financial
5 institution doing business in this state and having an unimpaired
6 capital and surplus sufficient to entitle it to become a savings
7 bank under the provisions of existing laws of this state may be
8 converted into a mutual or stock savings bank if the conversion
9 is not in contravention of any laws of the United States. In
10 such case, the articles of incorporation may be executed by a
11 majority of the directors of the federal savings and loan associ-
12 ation, federal savings bank, or other member-owned federally
13 chartered financial institution. A majority of the directors,
14 after executing the articles of incorporation, shall have the
15 power to execute all other papers and to do whatever may be
16 required to complete its organization as a savings bank.

17 (2) The shares of the savings bank may continue to be for
18 the same amount each as they were before the conversion, and the
19 directors may continue to be directors of the savings bank until
20 others have been elected or appointed under the laws of this
21 state.

22 (3) The approval of the commissioner shall be based on an
23 examination of the federal savings and loan association, federal
24 savings bank, or other member-owned federally chartered financial
25 institution and of the proceedings had by its directors and
26 shareholders or members with respect to the conversion.

1 (4) A conversion shall not be made to defeat or defraud any
2 of the creditors of the federal savings and loan association,
3 federal savings bank, or other member-owned federally chartered
4 financial institution.

5 (5) Subject to conditions as he or she may prescribe, the
6 commissioner may permit the converted savings bank to retain and
7 carry, at a value determined by the commissioner, assets of the
8 converting federal savings and loan association, federal savings
9 bank, or other member-owned federally chartered financial insti-
10 tution as do not conform to the legal requirements relative to
11 assets acquired and held by savings banks.

12 Sec. 713. (1) With the approval of the commissioner and
13 upon the affirmative votes of more than 50% of the total member-
14 ship of a mutual state savings and loan association, or mutual
15 state savings bank, or other member-owned state chartered finan-
16 cial institution having an unimpaired capital and surplus suffi-
17 cient to entitle it to become a savings bank under the provisions
18 of existing laws of this state may be converted into a mutual or
19 stock savings bank. In such case, the articles of incorporation
20 may be executed by a majority of the directors of the savings and
21 loan association, or other member-owned state chartered financial
22 institution. A majority of the directors, after executing the
23 articles of incorporation, may execute all other papers and do
24 whatever may be required to complete its organization as a sav-
25 ings bank.

26 (2) The shares of the savings bank may continue to be for
27 the same amount each as they were before the conversion, and the

1 directors may continue to be directors of the savings bank until
2 others have been elected or appointed under the laws of this
3 state.

4 (3) The approval of the commissioner shall be based on an
5 examination of the savings and loan association, or other
6 member-owned state chartered financial institution and of the
7 proceedings had by its directors and members with respect to the
8 conversion.

9 (4) A conversion shall not be made to defeat or defraud any
10 of the creditors of the savings and loan association or other
11 member-owned state chartered financial institution.

12 (5) Subject to conditions as he or she may prescribe, the
13 commissioner may permit the converted savings bank to retain and
14 carry, at a value determined by the commissioner, assets of the
15 converting savings and loan association or other member-owned
16 state chartered financial institution which do not conform to the
17 legal requirements relative to assets acquired and held by sav-
18 ings banks.

19 Sec. 714. (1) If a conversion under sections 709 to 713
20 becomes effective, all the property of the converting organiza-
21 tion, including all its rights, title, and interest in and to all
22 property of whatsoever kind, whether real, personal, or mixed,
23 and things in action, and every right, privilege, and interest,
24 and asset of any conceivable value or benefit then existing,
25 belonging, or pertaining to it, or which would inure to it, shall
26 immediately by act of law and without any conveyance or transfer
27 and without any further act or deed, be vested in and become the

1 property of the converted organization, which shall have, hold,
2 and enjoy the same in its own right as fully and to the same
3 extent as it was possessed, held, and enjoyed by the converting
4 organization.

5 (2) The converted organization shall be deemed to be a con-
6 tinuation of the entity and of the identity of the converting
7 organization. All the rights, obligations, and relations of the
8 converting organization to or in respect to any person, estate,
9 creditor, depositor, trustee, or beneficiary of any trust, and
10 in, or in respect to, any executorship or trusteeship or any
11 other trust or fiduciary function, shall remain unimpaired.

12 (3) The converted organization shall succeed to all rights,
13 obligations, relations, trusts, duties, and liabilities and shall
14 execute and perform each and every trust and relation in the same
15 manner as if the converted organization had itself assumed the
16 trust or relation and the obligations and liabilities.

17 (4) If the converting organization is acting as administra-
18 tor, co-administrator, executor, co-executor, trustee, or
19 co-trustee of or in respect to any estate or trust being adminis-
20 tered under the laws of this state, the relation, as well as any
21 other or similar fiduciary relations, and all rights, privileges,
22 duties, and obligations shall remain unimpaired and shall con-
23 tinue into and in the converted organization from and as of the
24 time of taking effect of the conversion, irrespective of the date
25 when the relation may have been created or established and irre-
26 spective of the date of any trust agreement or the date of the

1 death of any testator or decedent whose estate is being
2 administered.

3 (5) A conversion shall not effect under the laws of this
4 state a renunciation or revocation of any letters of administra-
5 tion or letters testamentary pertaining to the relation nor a
6 removal or resignation from any executorship or trusteeship or
7 other fiduciary relationship nor have the effect as if the execu-
8 tor or trustee or other fiduciary had died or otherwise become
9 incompetent to act.

10 (6) A savings bank or national banking association or stock
11 association or federal savings bank resulting from a conversion
12 under sections 709 to 713 shall have the right, notwithstanding
13 any of the requirements, restrictions, and limitations of section
14 417 to the contrary, to retain and continue to operate any and
15 all branches of the converting organization that were in lawful
16 operation immediately prior to conversion, without being required
17 to establish or reestablish any branch or branches under
18 section 417 and irrespective of whether any branch or branches
19 could, at the time the conversion becomes effective, have been
20 established or reestablished as a branch or branches of the con-
21 verting or converted organization, consistently with the require-
22 ments, restrictions, and limitations of section 417.

23 Sec. 715. The liability of any savings bank, national bank-
24 ing association, stock association, or federal savings bank or of
25 the shareholders, directors, or officers thereof, or the rights
26 or remedies of the creditors thereof, or of persons transacting
27 business with such entities, shall not be lessened or impaired by

1 virtue of the sale of all or substantially all of the assets of
2 such entities or by the consolidation of 2 or more organizations
3 or the conversion of an organization.

4 Sec. 716. (1) An application for a mutual savings bank to
5 amend its articles of incorporation to authorize the issuance of
6 stock and to issue stock shall be in a form prescribed by the
7 commissioner, and shall include a plan of conversion acceptable
8 to the commissioner.

9 (2) Any amendment to the articles of incorporation and
10 bylaws of a savings bank which for the first time authorizes it
11 to issue stock must be approved by the members, except that the
12 amendment shall require approval only of the commissioner and
13 board of directors of a savings bank if the commissioner finds
14 that grounds exist for the appointment of a conservator for the
15 savings bank.

16 (3) An amendment to the articles of incorporation of a sav-
17 ings bank under this section shall include provisions with
18 respect to the surplus and undivided profits of the savings bank,
19 in which case the surplus and undivided profits shall be retained
20 and disposed of in accordance with those provisions.

21 (4) The corporate existence of a mutual savings bank that
22 amends its articles of incorporation to authorize the issuance of
23 stock and which issues stock shall continue to be, and the
24 resulting stock savings bank shall be considered to be, a contin-
25 uation of the converted mutual savings bank.