

BANKING CODE OF 1999 (EXCERPT)
Act 276 of 1999

PART 2
LOANS

487.14201 Loans and credit extensions; interest and charges.

Sec. 4201. (1) A bank may collect interest and charges on loans and extensions of credit as permitted by the laws of this state or of the United States to any person.

(2) A bank may charge a discount on obligations purchased by the bank.

History: 1999, Act 276, Eff. Mar. 1, 2000.

487.14202 Total loans and credit extensions; limitation; exceptions; limitations based upon capital and surplus.

Sec. 4202. (1) Except as otherwise provided in this section or by order or declaratory ruling of the commissioner, the total loans and extensions of credit and leases by a bank to a person at no time shall exceed 15% of the capital and surplus of the bank, except that upon approval by 2/3 vote of its board of directors the limit may be increased to not to exceed 25% of the capital and surplus of the bank.

(2) If the commissioner determines at any time that the interests of a group of more than 1 person are so interrelated that they should be considered as a unit for the purpose for which credit was extended, the total loans and extensions of credit and leases of persons of that group shall be combined and considered loans and extensions of credit and leases of 1 person under this section. A bank shall not be considered to have violated this section solely by reason of the fact that the indebtedness of a group then held exceeds the limitations of this section at the time of a determination by the commissioner that the indebtedness of that group shall be combined, but if required by the commissioner, the bank shall dispose of indebtedness of the group in the amount in excess of that permitted by this section within a reasonable time determined by the commissioner.

(3) The following loans and extensions of credit shall not be subject to subsection (1):

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

(b) The purchase of banker's acceptances of another bank of the kind described in paragraph 7 of section 13 of the federal reserve act, chapter 6, 38 Stat. 263-264.

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

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

(e) A loan or extension of credit from 1 business day to the next to a depository institution of excess reserve balances from time to time maintained under section 19 of the federal reserve act, chapter 6, 38 Stat. 270.

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

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

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

(i) A loan or extension of credit to the student loan marketing association.

(j) A loan or extension of credit fully secured by a segregated deposit account in the lending bank.

(k) A loan or extension of credit arising from the acceptance by a bank of drafts or bills of exchange drawn upon the bank, or a bank's participation in drafts or bills of exchange drawn upon and accepted by another bank, out-of-state bank, or national bank in conformity with section 4103.

(l) Other loans or extensions of credit as determined by the commissioner by order or declaratory ruling.

(4) The following limitations based upon capital and surplus apply to all of the following:

(a) Loans and extensions of credit to a customer secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 30% of capital and surplus, if the market value of the staples securing the loans or extensions of credit at all times equals or exceeds 115% of the outstanding amount of the loans or extensions of credit. The staples shall be

fully covered by insurance if it is customary to insure the staples.

(b) Loans or extensions of credit to a customer secured by shipping documents or instruments transferring or securing title covering livestock, or giving a lien on livestock, if the market value of the livestock securing the obligation is not at any time less than 115% of the face amount of the notes covered, shall be subject to a limitation of 30% of capital and surplus. Loans or extensions of credit arising from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse indorsement or unconditional guarantee of the seller and which are secured by the cattle being sold, shall be subject to a limitation of 30% of capital and surplus.

(c) Loans or extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper, which carries a full recourse indorsement or unconditional guarantee by the person transferring the paper, shall be subject to a limitation of 30% of capital and surplus. If the bank's files or the knowledge of its officers of the financial condition of each maker of the consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for the payment of the loans or extensions of credit, the limitations of this section as to the loans and extensions of credit of each maker shall be the sole applicable loan limitation. The certification shall be retained as part of the records of the bank.

History: 1999, Act 276, Eff. Mar. 1, 2000.

487.14203 Financing real or personal property; use of proceeds for purchase, design, manufacture, construction, repair, modification, or improvement; liability for defect.

Sec. 4203. A bank that makes a loan, the proceeds of which are used or may be used by the borrower to finance the purchase, design, manufacture, construction, repair, modification, or improvement of real or personal property, shall not be liable for any defect in the property purchased, designed, manufactured, constructed, repaired, modified, or improved or for any loss or damage resulting from the failure of the borrower or any agent or other person employed by the borrower to use due care in the examination, design, manufacture, construction, repair, modification, or improvement of the property.

History: 1999, Act 276, Eff. Mar. 1, 2000.

487.14204 Insurance; hazard; property and casualty.

Sec. 4204. (1) A bank that requires a mortgagor to maintain hazard insurance as a condition of receiving a mortgage loan shall not require the amount of the hazard insurance to be greater than the replacement cost of the mortgaged building or buildings.

(2) A bank may require an amount of property and casualty insurance that is required of the bank as a condition of sale, transfer, or assignment of all or part of the mortgage to a third party. This subsection does not require that the bank anticipate a sale, transfer, or assignment at the time the mortgage is made.

History: 1999, Act 276, Eff. Mar. 1, 2000.

487.14205 Allowance for bank loan and lease losses; charge off of debt.

Sec. 4205. Unless a debt constitutes a claim against a solvent estate in probate, if the interest on a debt held by a bank is past due and unpaid for a period of 12 months, the bank shall charge off to its allowance for loan and lease losses the portion of the debt that is not well secured.

History: 1999, Act 276, Eff. Mar. 1, 2000;—Am. 2009, Act 59, Imd. Eff. July 2, 2009.