

BANKING CODE OF 1999 (EXCERPT)
Act 276 of 1999

PART 3
INVESTMENTS

487.14301 Purchasing, selling, underwriting, and holding investment securities.

Sec. 4301. (1) A bank may purchase, sell, underwrite, and hold investment securities that are obligations in the form of bonds, notes, or debentures of a type and to the extent permitted by this act.

(2) A bank may hold, without limit, any of the following:

(a) Obligations of the United States, obligations that are guaranteed fully as to principal and interest by the United States, or any general obligations of any state or of any political subdivision of a state.

(b) Obligations issued by an entity of the federally chartered Farm Credit System.

(c) Obligations issued by banks for cooperatives.

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

(e) Obligations insured by the secretary under title IX of the national housing act, 12 USC 1750 to 1750g.

(f) Obligations insured by the secretary under section 207 of title II of the national housing act, 12 USC 1713, if the debentures to be issued in payment of the insured obligations are guaranteed as to principal and interest by the United States.

(g) Obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association.

(h) Mortgages, obligations, or other securities that are or ever have been sold by the Federal Home Loan Mortgage Corporation under 12 USC 1454 or 1455.

(i) Obligations of a public housing agency, as defined in section 1437a of the United States housing act of 1937, 42 USC 1437a.

(j) Obligations of a local public agency, as defined in former 42 USC 1460(h), secured by a loan agreement between the local public agency and the secretary of the United States Department of Housing and Urban Development.

(k) Any other investment security authorized by order or declaratory ruling of the director.

(3) Subject to the exercise of prudent banking judgment, a bank may engage in the underwriting of any of the following investment securities:

(a) Obligations of the United States or any political subdivision of the United States.

(b) Obligations of any state or a political subdivision of any state.

(c) Obligations of the International Bank for Reconstruction and Development.

(d) Obligations of the Inter-American Development Bank.

(e) Obligations of the Asian Development Bank.

(f) Obligations of the Tennessee Valley Authority.

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

(h) Obligations of the African Development Bank.

(i) Obligations of the International Finance Corporation.

(j) Other obligations listed in subsection (2).

(k) Other obligations authorized by order or declaratory ruling of the director.

(4) A bank may purchase for its own account other investment securities, but the total amount of investment securities of any 1 obligor or maker, held by a bank under this subsection, shall not exceed at any time 25% of its capital and surplus.

(5) The statutory limitation on the amount of investment securities of any 1 obligor or maker that may be held by a bank is determined on the basis of generally accepted accounting principles unless otherwise directed or permitted in writing by the director for safety and soundness reasons.

(6) A bank shall not purchase investment securities convertible into stock at the option of the issuer.

(7) The restrictions and limitations of this section with respect to a bank acquiring and holding securities for its own account do not apply to securities acquired through foreclosure on collateral, or acquired in good faith by way of compromise of a doubtful claim or to avoid a loss in connection with a debt previously contracted. This section does not limit the investment authority of a bank granted by any other section of this act.

(8) If a bank invests funds in a security, obligation, or other instrument that at the time is permitted under this part, the investment subsequently becomes impermissible because of a change in circumstances or law, and the director finds that continuing to hold the investment will have an adverse effect on the safety and

soundness of the bank, the director may require that the bank develop a reasonable plan for the divestiture of the investment.

History: 1999, Act 276, Eff. Mar. 1, 2000;—Am. 2016, Act 177, Eff. Sept. 12, 2016.

487.14302 Purchase of investment securities.

Sec. 4302. (1) A bank may purchase investment securities for its own account when in its prudent banking judgment, which may be based in part upon estimates that it believes to be reliable, it determines that there is adequate evidence that the obligor will be able to perform all it undertakes to perform in connection with the securities, including all debt service requirements, and that the securities may be sold with reasonable promptness at a price that corresponds to their fair value.

(2) A bank shall not purchase investment securities in which the investment characteristics are considered distinctly or predominantly speculative, or purchase investment securities that are in default, whether as to principal or interest.

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

487.14303 Investment in other assets.

Sec. 4303. Notwithstanding any other section of this act, a bank may invest in other assets authorized by order or declaratory ruling of the commissioner.

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

487.14304 Bank investment authority; purchasing or holding shares of stock or other equity interests.

Sec. 4304. (1) A bank shall not engage in a transaction with respect to shares of the capital stock of a corporation unless specifically authorized under this act or by order or declaratory ruling of the director under this act.

(2) A bank may purchase and sell securities and stock on the order of and for the account of a customer without recourse.

(3) A bank shall not make a loan on or discount the security of the shares of its own capital stock, or the capital stock of its holding company, if any, unless the security is necessary to prevent loss on a debt previously contracted in good faith.

(4) A bank may purchase or hold shares of its own stock if any of the following apply:

(a) The bank is holding shares that amount to not more than 5% of its common stock until disposed of in compliance with an existing stock option plan.

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

(c) The director gives written approval to the bank to purchase or hold shares for its own account.

(5) A bank may purchase and hold shares of stock or other equity interests, that have an aggregate purchase price that is not more than 10% of its capital and surplus, of each of the following:

(a) Small business investment companies that are doing business in this state and licensed under, or established under, the small business investment act of 1958, Public Law 85-699, 72 Stat 689.

(b) The Michigan business development corporation.

(c) Corporations or partnerships that are authorized by title IX of the housing and urban development act of 1968, Public Law 90-448, 82 Stat 547.

(d) Business entities whose primary purpose is to provide capital to banks, which banks are largely owned or controlled by individuals classified as racial minorities.

(e) Open-end management investment companies that are registered with the securities and exchange commission under the investment company act of 1940, 15 USC 80a-1 to 80a-64, while the portfolios of the companies are restricted by their investment policies, changeable only by vote of the shareholders, to investments permitted to banks by order or declaratory ruling of the director.

(f) Agricultural credit business entities that are organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock.

(g) The student loan marketing association established under section 439 of part B of title IV of the higher education act of 1965, 20 USC 1087-2.

(h) Any class of voting securities of banks, out-of-state banks, or national banks that are engaged exclusively in providing services to depository institutions or their officers, directors, employees, and customers, or bank holding companies that own or control those banks, out-of-state banks, or national banks if the stock of the bank holding companies is owned exclusively, except to the extent directors' qualifying shares are required by law, by depository institutions and if all subsidiaries of the bank holding companies engage

exclusively in serving depository institutions or their officers, directors, employees, and customers.

(i) Banking organizations or corporations that are chartered or incorporated under the laws of the United States or of any state, territory, or protectorate of the United States, and principally engaged in international or foreign banking, either directly or through the agency, ownership, or control of foreign banks.

(j) Foreign banks that are not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the director, is incidental to the international or foreign business of the foreign banks.

(k) Entities that provide, and entities that reinsure providers of, insurance.

(6) Subject to the limitation based on capital and surplus under subsection (5), a bank may purchase for its own account any of the following:

(a) Securities authorized by title IX of the housing and urban development act of 1968, Public Law 90-448, 82 Stat 547.

(b) Adjustable rate preferred stock and money market preferred stock.

(c) Stock, bonds, or other obligations of a business and industrial development company established under the provisions of the Michigan BIDCO act, 1986 PA 89, MCL 487.1101 to 487.2001.

(d) Stock, bonds, or other obligations of community and economic development entities, community development projects, and other public welfare investments that are considered under federal law, federal regulation, or a written interpretation by a federal bank regulatory agency to be a qualified investment for purposes of the community reinvestment act of 1977, 12 USC 2901 to 2908, utilizing the investment test described in 12 CFR 25.23, 12 CFR 228.23, or 12 USC 345.23.

(7) This section does not limit or expand the investment authority of a bank granted under any other section of this act.

History: 1999, Act 276, Eff. Mar. 1, 2000;—Am. 2016, Act 175, Eff. Sept. 12, 2016.

487.14305 Venture capital investments.

Sec. 4305. (1) Except as otherwise provided by this act, a bank may make venture capital investments, and may invest in equity securities of a professional investor a majority of whose assets consists of venture capital investments.

(2) If a bank makes a venture capital investment under subsection (1), an officer or director of the bank shall not hold an equity position in the financed company, and the bank shall own less than 50% of the company.

(3) A bank's investment under subsection (1) in any 1 entity shall not exceed an amount equal to 5% of the capital and surplus of the bank, and all investments under subsection (1) shall not exceed an amount equal to 10% of the capital and surplus of the bank.

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

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

487.14306 Lease, purchase, holding, and conveyance of real property.

Sec. 4306. A bank may lease, purchase, hold, and convey any of the following real property:

(a) As necessary for the convenient transaction of its business, including space within its banking office buildings to rent as lessor to third parties.

(b) As conveyed to it in satisfaction of debts previously contracted in the course of its business.

(c) As it purchases at sales under judgments, decrees, or mortgages held by the bank or to secure debts due to it.

(d) As it legally owned on the effective date of this act.

(e) As conveyed to it under sections 4401 to 4405.

(f) As it may acquire in connection with the purchase by it of a land contract, but the purchase of the land contract constitutes a loan secured by real property for purposes of section 4202.

(g) For any other purpose as may be permitted by this act or by order or declaratory ruling of the commissioner.

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

487.14307 Acquisition, development, or improvement of real property for sale.

Sec. 4307. A bank may invest not more than 10% of its total assets in the acquisition and development of real property for sale, or for the improvement of real property by construction or rehabilitation of residential or commercial units for sale or rental purposes. For purposes of this section, a bank may purchase, take, lease as lessee, or otherwise acquire, and own, hold, use, sell, lease as lessor, pledge, grant a security interest in, convey, or otherwise dispose of real property. The investment by a bank may be direct, or indirect as a

stockholder in a corporation, member of a limited liability company, or limited partner in a partnership or limited liability partnership.

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

487.14308 Acquisition of real property for use of customer; loan secured by real property.

Sec. 4308. (1) A bank may lease, purchase, hold, and convey real property for the use of a customer by lease arrangement with the bank, but the acquisition of real property and leasing to a customer constitutes a loan secured by real property for purposes of section 4202.

(2) A bank may incur additional obligations incident to becoming an owner or lessor of real property acquired for the use of a customer.

(3) Inventory of real property held under this section and not leased shall not exceed 25% of the bank's capital and surplus.

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

487.14309 Acquisition of personal property for use of customer; loan secured by personal property.

Sec. 4309. (1) A bank may lease, purchase, hold, and convey personal property for the use of a customer by lease arrangement with the bank, but the acquisition of personal property and leasing to a customer constitutes a loan secured by personal property under section 4202.

(2) A bank may incur additional obligations incident to becoming an owner or lessor of personal property acquired for the use of a customer.

(3) Inventory of personal property held under this section and not leased shall not exceed 25% of the bank's capital and surplus.

(4) Personal property of a bank that is leased, loaned, or otherwise made available to and used by a person in connection with a business conducted for profit shall be subject to taxation in the same amount and to the same extent as though the lessee or user were the owner of the property. When due, the taxes shall constitute a debt due from the lessee or user to the unit of government for which the taxes were assessed.

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

487.14310 Investment in service entity.

Sec. 4310. (1) As authorized by order or declaratory ruling of the commissioner, a bank may invest in service entities that engage in activities in which a bank is not authorized to engage.

(2) The maximum aggregate investment by a bank in service entities shall be the lesser of 5% of the bank's total assets or 75% of its capital and surplus.

(3) The commissioner shall give notice to all banks of orders and declaratory rulings issued under this section.

(4) For purposes of subsection (2), investment in a service entity shall include loans by a bank or its subsidiary to a service entity.

(5) Subject to the investment limit in subsection (2), a bank or its subsidiary that has made an initial investment in a service entity may make additional investments in that service entity without notice to the commissioner.

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