

SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

CHAPTER 4
POWERS

487.3401 Savings bank; powers.

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

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

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

(c) To make contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

statute of this state. In addition, a subsidiary may engage in activities specifically permitted for subsidiaries by order or declaratory ruling of the commissioner. Except upon written approval of the commissioner, a savings bank shall not be a general partner in a subsidiary.

(q) To engage in any aspect of the insurance and surety business as an agent, broker, solicitor, or insurance counselor as provided under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, and to own an insurance agency in whole or in part as provided under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Receive deposits.

(ii) Permit withdrawals of deposits.

(iii) Renew time deposits.

(iv) Close loans.

(v) Service loans.

(vi) Receive loan payments.

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

(ee) To sell money orders, travel checks, cashier's checks, and similar instruments drawn by it on its accounts or as agent for any organization empowered to sell the instruments through agents within this state.

(ff) To guarantee the signatures of customers and others.

(gg) To operate a safe and collateral deposit company or department under section 428.

(hh) To engage directly in the real estate brokerage business as provided under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518, and section 409.

(ii) To own in whole or in part a real estate brokerage business as provided under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518, and section 409.

(jj) To issue securities in the form of bonds, notes, debentures, and other evidence of indebtedness.

(2) The commissioner may authorize by order or declaratory ruling a savings bank to exercise further powers consistent with the safe and sound conduct of the business of banking or of a business related or incidental to banking as are granted by the laws of the United States or of any state or political subdivision of the United States to financial service providers.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 1996, Act 422, Imd. Eff. Nov. 22, 1996;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3402 Purchase, design, manufacture, construction, repair, modification, or improvement of real property; use of loan proceeds; liability for defect.

Sec. 402. A savings 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 property shall not be liable for any defect in the real 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 real property.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3403 Purchase of corporation stock by savings bank; limitation on aggregate investments.

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

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3404 Purchase of stock, or loans to, Michigan business development corporation.

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

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3405 Venture capital investments; “professional investor” and “venture capital” defined.

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

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

(3) A savings 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 savings bank, and all investments under subsection (1) shall not exceed an amount equal to 10% of the capital and surplus of the savings bank.

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

(5) As used in this section:

(a) "Professional investor" means an investment company registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64, a pension or profit sharing trust or other institutional buyer, or a person, partnership, or other entity a majority of whose resources are dedicated to investing in equity or debt securities and whose net worth exceeds \$500,000.00 prior to the savings bank's investment.

(b) "Venture capital" means equity financing that is provided for starting up or expanding a company, or related purposes such as financing for seed capital, research and development, introduction of a product or process into the marketplace, or similar needs requiring risk capital. A venture capital investment shall not include the purchase of a share of stock in a company if, on the date on which the share of stock is purchased, the company has securities outstanding that are registered on a national securities exchange under section 12(b) of title I of the securities exchange act of 1934, chapter 404, 48 Stat. 892, 15 U.S.C. 78(l), that are registered or required to be registered under section 12(g) of that act, or which would be required to be so registered except for the exemptions in section 12(g)(2) of that act.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3406 “Investment security” and “secretary” defined; purchase of investment securities.

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

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

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

(2) A savings 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 which corresponds to their fair value. The purchase of investment securities in which the investment characteristics are considered distinctly or predominantly speculative, or the purchase of investment securities that are in default, whether as to principal or interest, is prohibited.

(3) A savings bank may purchase without limit 1 or more of the following:

(a) Obligations of the United States, or 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 under authority of the federal farm credit act of 1971, Public Law 92-181, 85 Stat. 583.

(c) Obligations issued by banks for cooperatives.

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

(e) Obligations insured by the secretary under title XI of the national housing act, chapter 847, 80 Stat. 1274, 12 U.S.C. 1749aaa to 1749aaa-5.

(f) Obligations insured by the secretary under section 207 of title II of the national housing act, chapter 847, 48 Stat. 1252, 12 U.S.C. 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 pursuant to section 305 or 306 of the federal home loan mortgage act, title III of the emergency home finance act of 1970, Public Law 91-351, 12 U.S.C. 1454 and 1455.

(i) Obligations of a public housing agency, as defined in the United States housing act of 1937, chapter 896, 88 Stat. 653, secured by any of the following:

(i) An agreement between the public housing agency and the secretary in which the public housing agency agrees to borrow from the secretary, and the secretary agrees to lend to the public housing agency, before the maturity of the obligations, money in an amount which together with any other money irrevocably committed to the payment of interest on such obligations will suffice to pay the principal of the obligations with interest to maturity on the obligations which money under the terms of the agreement is required to be used for the purpose of paying the principal of and the interest on the obligations at their maturity.

(ii) A pledge of annual contributions under an annual contributions contract between the public housing agency and the secretary if the contract contains the covenant by the secretary that is authorized by section 6(g) of title I of the United States housing act of 1937, chapter 896, 88 Stat. 659, 42 U.S.C. 1437d, and if the maximum sum and the maximum period specified in the contract under section 6(g) of the United States housing act of 1937 is not less than the annual amount and the period for payment that are requisite to provide for the payment when due of all installments of principal and interest on such obligations.

(iii) A pledge of both annual contributions under an annual contributions contract containing the covenant by the secretary that is authorized by section 6(g) of the United States housing act of 1937 and a loan under an agreement between the local public housing agency and the secretary in which the public housing agency agrees to borrow from the secretary and the secretary agrees to lend to the public housing agency, prior to the maturity of the obligations involved, money in an amount which, together with any other money irrevocably committed under the annual contributions contract to the payment of principal and interest on the obligations, will suffice to provide for the payment when due of all installments of principal and interest on the obligations, which money under the terms of the agreement is required to be used for the purpose of paying the principal and interest on the obligations at their maturity.

(j) Obligations of a local public agency, as defined in former section 110(h) of part A of title I of the housing act of 1949, secured by an agreement between the local public agency and the secretary in which the local public agency agrees to borrow from the secretary and the secretary agrees to lend to the local public agency, money in an aggregate amount which, together with any other money irrevocably committed to the payment of interest on the obligations, will suffice to pay, when due, the interest on all installments, including the final installment, of the principal of the obligations, which money under the terms of the agreement is required to be used for the payments.

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

(4) The total amount of investment securities of any 1 obligor or maker, held by a savings bank for its own account under this subsection, shall not exceed at any time 20% of its capital, surplus, and subordinated notes

and debentures. This limitation shall not require a savings bank to dispose of any securities lawfully held by it on the effective date of this act. The statutory limitation on the amount of investment securities of any 1 obligor or maker which may be held by a savings bank shall be determined on the basis of the par or face value of the securities. For purposes of this section, capital notes or debentures shall not include capital notes or debentures issued to or held by the federal deposit insurance corporation.

(5) A savings bank shall maintain in its credit files information adequate to demonstrate that it has exercised prudence in making the determinations and carrying out the transactions described in subsection (2).

(6) If a savings bank purchases investment securities convertible into stock or with stock purchase warrants attached, entries shall be made by the savings bank at the time of purchase to write down the cost of the securities to an amount that represents the investment value of the securities considered independently of the conversion feature or attached stock purchase warrants. A savings bank shall not purchase investment securities that are convertible into stock at the option of the issuer.

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

- (a) Obligations of the United States.
- (b) General obligations of any state of the United States or a political subdivision of the United States.
- (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 (3).
- (k) Other obligations authorized by order or declaratory ruling of the commissioner.

(8) For the purposes of underwriting under subsection (7), prudence shall require a consideration of the resources and obligations of the obligor and a determination that the obligor possesses resources sufficient to provide for all required payments in connection with the obligation.

(9) For the purposes of underwriting under subsection (7), a savings bank shall not underwrite any investment securities of a foreign country that has been identified by the United States state department as engaging in or sponsoring terrorism.

(10) The restrictions and limitations of this section 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 savings bank granted by any other section of this act.

(11) A savings bank may invest in other assets authorized by order or declaratory ruling of the commissioner.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3407 Acquisition, development, or improvement of real estate; limitation on investment of assets; powers of savings bank.

Sec. 407. A savings bank may invest not more than 10% of its total assets in the acquisition and development of real estate for sale, or for the improvement of real estate by construction or rehabilitation of residential or commercial units for sale or rental purposes. For purposes of this section, a savings 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 estate. The investment by a savings 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: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3408 Services performed by savings bank.

Sec. 408. A savings bank may perform 1 or more of the following services, and any other services permitted by order or declaratory ruling of the commissioner:

- (a) Provide life, health, and casualty insurance for officers and employees of financial institutions and operate bonus plans and retirement benefit plans for those officers and employees.
- (b) Service mortgages and land contracts.
- (c) Originate and service mortgage loans, mortgages, and land contracts, on behalf of financial institutions,

corporations, and state or federal agencies or instrumentalities.

- (d) Act as escrow agent or depository for other escrow agents or fiduciaries.
- (e) Credit analysis, appraising, construction loan inspection, and abstracting.
- (f) Research, studies, and surveys.
- (g) Develop and operate storage facilities for microfilm or other duplicate records.
- (h) Advertising, brokerage, and other services to procure and retain both deposits and loans, but not pooling deposits or soliciting or promoting pooled deposits.
- (i) Liquidity management, investment, advisory, and consulting services.
- (j) Establish, own, lease, operate, or maintain electronic funds transfer terminals.
- (k) Purchase office supplies, furniture, and equipment.
- (l) Prepare local, state, and federal tax returns for individuals or organizations that are not corporations operated for profit.
- (m) Data processing services.
- (n) Subject to applicable state or federal law, provide brokerage services for the offer, sale, or purchase of a security or commodity contract.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3409 Savings bank engaged in real estate brokerage business; notice of licensure or ownership; prohibited acts; disclosure to credit applicant; violation of section; orders; limitation.

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

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

- (a) Impose a requirement, verbally or in writing, that a borrower must contract for or enter into any other arrangement for real estate brokerage services with a particular real estate broker.
- (b) Impose a requirement, verbally or in writing, that as a condition of approving a loan a borrower shall contract or enter into any other arrangement for real estate brokerage services.
- (c) Impose a requirement, verbally or in writing, that a real estate brokerage customer shall make application for a loan or any other service or services of a particular savings bank or any of its subsidiaries, agencies, or service entities.

(d) Impose a requirement, verbally or in writing, that a condition of providing real estate brokerage services is that the customer shall make an application for a loan or any other arrangement for other services of the savings bank or any of its subsidiaries, agencies, or service entities.

(e) Offer or provide more favorable consideration, terms, or conditions for any financial products or services to induce or attempt to induce a person to enter into any arrangement for real estate brokerage services with any particular real estate broker.

(f) Offer or provide more favorable terms or conditions for any real estate brokerage services to induce or attempt to induce a person to apply for a loan or obtain any other services of a particular savings bank or any of its subsidiaries, agencies, or service entities.

(g) Any other activity prohibited by order or declaratory ruling of the commissioner.

(3) A savings bank that engages directly in the real estate brokerage business or owns in whole or in part a real estate brokerage business under this section shall clearly disclose in writing to any person who applies for credit related to a real estate transaction or applies for prequalification or preapproval for credit related to a real estate transaction, that the person is not required to contract for or enter into an arrangement for real estate brokerage services with a particular real estate broker. Compliance with the disclosure requirements of this subsection shall not be necessary when a person applies for credit or prequalification for credit solely for the purpose of refinancing an existing indebtedness.

(4) A real estate brokerage that is affiliated with a savings bank shall clearly disclose in writing, before the time an agency agreement for real estate brokerage services is executed, that the person is not required to apply, contract for, or enter into any other arrangement for services of a particular savings bank or any of its subsidiaries, agencies, or service entities.

(5) The requirements of subsections (3) and (4) do not apply when the person has been given the affiliated business arrangement disclosure statement required by the real estate settlement procedures act of 1974, Public Law 93-533, 88 Stat. 1724.

(6) If the commissioner finds that a savings bank has violated this section, the commissioner may issue an order requiring the savings bank to cease and desist the activity that violates this section. If the commissioner additionally finds that the violation was knowingly committed, the commissioner may order any of the following:

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

(b) That restitution be made to a customer for actual damages directly attributable to the acts that are found to be a violation of this section.

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

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3410 Investment in service entities.

Sec. 410. (1) Upon 30 days' notice to the commissioner, a savings bank may invest in service entities that engage in activities described in subsections (4) and (5). The maximum aggregate investment by a savings bank in service entities shall be the lesser of 5% of the savings bank's total assets or 75% of its capital and surplus, if it is a stock savings bank, or the lesser of 5% of the savings bank's total assets or 75% of its total capital, if it is a mutual savings bank.

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

(3) Subject to the investment limit in subsection (1), a savings 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.

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

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

(i) Credit analysis, appraising, construction loan inspection, and abstracting.

(ii) Developing and administering personnel benefit programs, including life insurance, health insurance, and pension or retirement plans.

(iii) Research, studies, and surveys.

(iv) Developing and operating storage facilities for microfilm or other duplicate records.

(v) Advertising, brokerage, and other services to procure and retain both savings accounts and loans, but not pooling savings accounts or soliciting or promoting pooled savings accounts.

(vi) Serving as escrow agent, including executing and delivering conveyances, reconveyances, and transfers of title.

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

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

(ix) Establishing, owning, leasing, operating, or maintaining remote service units.

(x) Purchasing office supplies, furniture, and equipment.

(b) Real estate services that include any of the following:

(i) Maintaining and managing real estate, including real estate used for agricultural purposes.

(ii) Managing owners' associations for condominium, cooperative, planned unit development, or other rental real estate projects.

(iii) Providing home ownership and financial counseling.

(iv) Providing relocation services.

(v) Providing real estate brokerage services for property owned by a person that owns an interest in the service entity, the service entity or its wholly owned subsidiary, or a joint venture in which the service entity or its wholly owned subsidiary participates.

(vi) Acquiring real estate for development or subdivision, for construction of improvements, for resale or leasing to others for construction, or for use as manufactured home sites.

(vii) Acquiring improved real estate or manufactured homes to be held for rental or resale, or for remodeling, renovating, or demolishing and rebuilding for sale or rental.

(viii) Acquiring, maintaining, and managing real estate, improved or unimproved, to be used for offices and related facilities of a savings bank, subsidiary, or service entity, or of a person that owns an interest in the savings bank, subsidiary, or service entity, or for offices and related facilities and for rental or sale, if the acquisition, maintenance, and management is performed under a prudent program of property acquisition to meet either the present needs or reasonable future needs for office and related facilities of the savings bank,

subsidiary, or service entity, or of the person that owns an interest in the savings bank, subsidiary, or service entity.

(ix) Real estate brokerage under article 25 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.2501 to 339.2518 of the Michigan Compiled Laws. A savings bank with an investment in a real estate brokerage business must comply with section 409.

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

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

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

(ii) Investing in an entity that provides insurance in connection with loans, and investing in an entity which reinsures a provider of the insurance.

(iii) Making voting and nonvoting investments in corporations and in partnerships, whether as a general or limited partner, limited liability companies, and limited liability partnerships provided such other corporation or partnership or limited liability company engages only in activities permissible for a savings bank or a service entity.

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

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

(ii) Acting as an insurance broker or agent.

(iii) Providing data processing services.

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

(g) Offering mutual fund investment products.

(5) A savings bank may also invest in service entities that engage directly or through a wholly owned subsidiary in activities determined by order or declaratory ruling of the commissioner to be incidental to the conduct of the business of a financial services provider, activities that further or facilitate the purposes of a financial services provider, or which provide services to a financial services provider. The commissioner shall consider the ability of service entities to exercise any additional power in a safe and sound manner. The commissioner shall also consider the ability of service entities to compete with, or offer the same or similar services as offered by, service corporations or service organizations of other providers of financial services. The commissioner shall give notice to all savings banks of rules promulgated, or declaratory rulings or determinations, or orders issued pursuant to this subsection.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3411 Powers granted in MCL 487.3401 and 487.3403 construed.

Sec. 411. The powers granted in sections 401 and 403 shall not be construed as limiting any grant of authority made elsewhere by this act except as provided in section 401. Except as otherwise provided in this act or in the articles or in the bylaws, such powers shall be exercised by the board of directors of the savings bank.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3412 Change in location of principal office.

Sec. 412. (1) Upon prior written notice to the commissioner, a savings bank may change the location of its principal office to any existing branch location of the savings bank within this state.

(2) Unless the commissioner objects in writing within 60 days after receipt of written notice from the savings bank of its intent to relocate its principal office, a savings bank may change the location of its principal office to any other location within this state which is not an existing branch location of the savings bank. The commissioner may issue a written statement of intent not to object at any time before expiration of the 60 days.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3413 Transactions relating to capital stock of corporation; authorization; purchase and sale of securities and stock; loan or discount; purchase or holding of own stock.

Sec. 413. (1) A savings bank shall not engage in any transaction with respect to shares of the capital stock of any corporation unless specifically authorized by this act or by the commissioner under section 401 or 410.

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

(3) A savings bank shall not make any loan or discount on the security of the shares of its own capital

stock, unless the security is necessary to prevent loss upon a debt previously contracted in good faith.

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

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

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

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

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3414 Savings bank possessing capital and surplus more than \$1,000,000.00; powers; application; savings bank operating foreign branches; restrictions and limitations; further powers.

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

(a) To establish branches in foreign countries for the furtherance of foreign commerce of the United States and to act, if required to do so, as fiscal agents of the United States.

(b) To invest an amount not exceeding in the aggregate 10% of its capital and surplus if it is a stock savings bank, or 10% of its total capital if it is a mutual savings bank in the stock of 1 or more banking organizations or corporations 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, or banking either directly or through the agency, ownership, or control of foreign banks.

(c) To acquire and hold, directly or indirectly, stock or other evidences of ownership in 1 or more foreign banks that are not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the commissioner, is incidental to the international or foreign business of the foreign bank, and to make loans or extensions of credit to or for the account of the foreign bank in the manner and within the limits prescribed by the commissioner by order or declaratory ruling.

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

(3) Every savings bank operating foreign branches under this section shall furnish information concerning the condition of the branches to the commissioner upon demand, and every savings bank investing in capital stock of banking organizations or corporations as provided under this section shall furnish information concerning the condition of the banking organizations or corporations to the commissioner upon demand. The commissioner may order special examinations of the branches, banking organizations, or corporations at such times as he or she deems best.

(4) Before a savings bank is permitted to purchase stock in a banking organization or corporation under this section, the banking organization or corporation shall enter into an agreement or undertaking with the commissioner to restrict their operations or conduct their businesses in a manner or under such limitations and restrictions as the commissioner may prescribe. If at any time the commissioner has ascertained that the orders or rulings prescribed by him or her are not being complied with, the commissioner may institute an investigation of the matter and subpoena witnesses and documents and administer oaths. If the investigation results in establishing the failure of the banking organization or corporation in question, or of the savings bank which is a stockholder, to comply with the rules of the commissioner, the commissioner may order the savings bank to dispose of stockholdings in the banking organization or corporation.

(5) Orders or rulings issued by the commissioner, in addition to regulating powers which a foreign branch may exercise under other provisions of law, may authorize a foreign branch, subject to such conditions and requirements as the orders or rulings prescribe, to exercise any further powers as may be usual in connection with the transaction of the business of banking in the places where the foreign branch transacts business. The orders or rulings shall not authorize a foreign branch to engage in the general business of producing, distributing, buying, or selling goods, wares, or merchandise. Except to such limited extent as the commissioner may deem to be necessary with respect to securities issued by any foreign government or any department, district, province, county, possession, or other similar governmental organization or subdivision of a foreign government, and any agency or instrumentality of any foreign government or of any organization or subdivision, the orders or rulings shall not authorize a foreign branch to engage or participate, directly or

indirectly, in the business of underwriting, selling, or distributing securities.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3415 Savings bank with branch offices in foreign country.

Sec. 415. (1) Notwithstanding section 1105 of the uniform commercial code, Act No. 174 of the Public Acts of 1962, being section 440.1105 of the Michigan Compiled Laws, a savings bank doing business in this state, that has 1 or more branch offices in any foreign country shall be liable for contracts to be performed at any branch offices and for deposits to be repaid at the branch offices to no greater extent than a savings bank, banking corporation, or other organization or association for banking purposes organized and existing under the laws of the foreign country would be liable under its laws. The laws of the foreign country for the purpose of this section shall be considered to include all acts, decrees, regulations, and orders promulgated or enforced by an authority asserting governmental, military, or police power of any kind at the place where any branch office is located, whether or not the dominant authority is recognized as a de facto or de jure government.

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

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3416 Savings bank as owner or lessor of personal property; lease payments as rent; taxes; prohibition.

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

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

(3) This section shall not exempt from general property taxation any personal property of a savings bank which is leased, loaned, or otherwise made available to and used by a private individual, association, or corporation in connection with a business conducted for profit. The personal property 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. Taxes shall be assessed to the lessees or users of the property and collected in the same manner as taxes assessed to owners of personal property, except that the taxes shall not become a lien against 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.

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

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3417 Savings bank with branch in another state.

Sec. 417. (1) A savings bank may establish and operate a branch or branches within any state, the District of Columbia, a territory or protectorate of the United States, or a foreign country, unless the commissioner objects in writing within 30 days after receipt of a written notice from the bank of its intent to establish a branch. The commissioner may issue a written statement of intent not to object at any time before the expiration of the 30 days.

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

(3) Except for a mobile branch, a branch of a bank shall not be moved from 1 location to another without prior written notice to the commissioner.

(4) Unless the commissioner objects in writing within 30 days after receipt of written notice from a savings bank of its intent to contract for branch services, a savings bank may contract with 1 or more banks, out-of-state banks, national banks, associations, or savings banks for the depository institution or institutions to act as branches to provide services to the customers of the contracting savings bank. The commissioner

may issue a written statement of intent not to object at any time before the expiration of the 30 days. This subsection shall not be construed to limit the powers granted to a savings bank under section 401(cc).

(5) Unless the commissioner objects in writing within 30 days after receipt of written notice from a contracting depository institution of its intent to contract for branch services, 1 or more out-of-state banks, national banks, associations, or savings banks may contract with a savings bank for the savings bank to provide services to the customers of the contracting out-of-state bank, national bank, association, or savings bank. The commissioner may issue a written statement of intent not to object at any time before the expiration of the 30 days. This subsection shall not be construed to limit the powers granted to a savings bank under section 401(cc).

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

(a) Accept a deposit to an existing account and record the addition to the account or give other evidence of receipt as prescribed by the savings bank.

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

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

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

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

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

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

(7) An out-of-state savings bank or federal savings bank located in a state, the District of Columbia, or a territory or protectorate of the United States whose laws permit the establishment in that state, district, territory, or protectorate of a branch by a savings bank may establish and operate 1 or more branches in this state.

(8) An out-of-state savings bank may apply to organize a branch in this state under this act by providing to the commissioner proof that its deposits are insured by an agency of the United States government. If the commissioner determines that the out-of-state savings bank is safe and sound, that the out-of-state savings bank is subject to regulation, and that there exists an agreement for exchange of supervisory information between the bureau and the out-of-state savings bank's regulator, the commissioner shall provide to the out-of-state savings bank a certificate of organization and eligibility to accept deposits and investments of public funds of the state and local units of government.

(9) Prior to commencing operations at a branch in this state, an out-of-state savings bank or federal savings bank shall provide written notice to the commissioner of the name of the institution, the street address and mailing address, if different, of the institution's principal office, the street address of the branch office, and the date when the branch is to commence operations in this state.

(10) Each savings bank, out-of-state savings bank, and federal savings bank operating in this state shall do both of the following:

(a) Designate and maintain an agent located in this state upon whom process for judicial and administrative matters may be served and shall provide written notice containing the name and address of its agent to the commissioner before commencing operations in this state.

(b) Notify the commissioner in writing of any change in its designated agent or the agent's address within 10 days following the effective date of the change.

(11) For purposes of this section, the designated agent of a savings bank or a federal savings bank is its chief executive officer.

(12) If a savings bank permanently discontinues the operations of any branch, all functions of the branch shall be considered transferable to, and treated as a part of, the principal office of the savings bank.

(13) A savings bank, out-of-state savings bank, or federal savings bank shall notify the commissioner in writing before discontinuing operations of a branch.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3418 Loan production offices.

Sec. 418. (1) Without notice to or approval of the commissioner, a savings bank may establish and operate a loan production office or loan production offices.

(2) A savings bank may perform any of the following activities through a loan production office:

- (a) Receive loan applications.
- (b) Process loans.
- (c) Assemble information related to the approval of loans.
- (d) Close loans.
- (e) Disburse loan proceeds approved by the principal office or a branch.
- (f) Receive loan payments.
- (g) Any other activities as approved by rule, order, or declaratory ruling of the commissioner.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3419 Purchase or assumption of national or state chartered bank, savings bank, or association; operation as new branch.

Sec. 419. Notwithstanding any other provision of this act, a savings bank that purchases or assumes all or substantially all of the assets or liabilities of an eligible insured national or state chartered bank, savings bank, or association may retain and maintain the main premises, branches, or agency offices of the former national bank, state chartered bank, or association as branches of the purchasing savings bank, provided it assumes the deposit liabilities of the eligible national bank, state chartered bank, savings bank, or association maintained at the main premises, branches, or agency offices. The notice required by section 417(1) shall be given for each main premises, branch, or agency office the purchasing savings bank intends to operate as a new branch.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3420 Discontinuing operations of branch or agency office; transfer of functions.

Sec. 420. If a savings bank permanently discontinues the operations of any branch or agency office, all bills, checks, and notes otherwise presentable for acceptance or payment, all deposits to be made or withdrawn, all notices to stop payment of checks to be given, and similar functions, shall be deemed transferable to, and treated as a part of, the principal office of the savings bank. The savings bank shall give written notice to the commissioner before discontinuing operations of any branch or agency office.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3421 Trust powers; conditions, limitations, and restrictions.

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

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

(a) In and by its corporate name to take, receive, hold, repay, reconvey, and dispose of any effects and property, both real and personal, that may be granted, committed, transferred, or conveyed to it with its consent, upon any terms or upon any trust at any time, by any person, including minors, bodies corporate, or by any court, including the federal courts, in the state, and to administer, fulfill, and discharge the duties of the trust for the remuneration as agreed upon.

(b) To act generally as agent for the transaction of business, the management of estates, the collection of rents, interest, dividends, and money, and the collection of principal and interest on mortgages, bonds, notes, and securities for money and to enforce the payment thereof, and to act as agent for the purpose of issuing, negotiating, registering, transferring, or countersigning the certificates of stock, bonds, or other obligations of any corporation, association, or municipality and to manage any sinking fund on the terms as agreed upon.

(c) To accept and to execute the offices of personal representative, trustee, receiver, conservator, liquidating agent, assignee, or guardian of any minor, incompetent person, legally incapacitated person, or person subject to guardianship, subject to the laws of this state applicable to those proceedings. In all cases when application is made to any court in this state for the appointment of any trustee, receiver, personal representative, conservator, or guardian of any minor, incompetent person, legally incapacitated person, or other person subject to conservatorship or guardianship, the court may appoint the savings bank, with its consent, to hold the office. The accounts of the savings bank as trustee, receiver, conservator, liquidating agent, assignee, personal representative, or guardian shall be regularly settled and adjusted by the proper office or tribunals. All proper, legal, usual, and customary charges, costs, and expenses shall be allowed to the savings bank for the care and management of the estate so committed to it. In case of appointment by any court, the savings bank shall not be required to give any security except in the discretion of the court, other

than as provided in section 426 for deposit with the state treasurer. If the court orders the savings bank to give security, the security shall be a bond in an amount fixed by the court and with a surety company authorized to do business in this state as surety on the bond, or with personal surety or sureties on the bond satisfactory to the court. If any savings bank is required, in the course of the administration of any trust, to give a bond, whether as additional security, substituted security, or otherwise, the surety on the bond shall not be liable directly or indirectly for any act or default committed by the savings bank prior to the date of the filing and approval of the bond, or for the failure of the savings bank to pay over on final settlement if the failure to pay over is due to an act or default committed prior to the filing and approval of the bond, or for the failure of the savings bank to collect from itself or from any prior surety or sureties the amount of any loss due any act or default committed by the savings bank prior to the date of the filing and approval of the bond.

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

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3422 Definitions; trust service agreements.

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

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

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

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

(2) A savings bank granted full trust powers may contract by written agreement with any other legal entity to carry on trust services in its name and for its account at 1 or more of the offices of the other legal entity.

(3) A savings bank may contract by written agreement with any other legal entity exercising full trust powers to carry on trust services at 1 or more of its banking offices but in the name and for the account of the other legal entity.

(4) An agreement provided for in this section, including a lease, or a modification or extension of an agreement, is not effective until it is filed with the commissioner.

(5) Thirty days after a host savings bank mails a notice of substitution as provided in subsection (6), a trust service provider shall be substituted for a host savings bank as fiduciary or agent and succeed to the title of assets held by a host savings bank in a fiduciary capacity for each account in which the host savings bank, under the terms of a trust service agreement approved by the commissioner, will no longer serve as fiduciary or agent. A trust service provider shall not be substituted for the host savings bank for an account in which the recipient of a notice of substitution with respect to that account objects to the substitution under subsection (6).

(6) For an account in which a trust service provider is substituted for a host savings bank under the terms of a trust service agreement, the host savings bank shall send a written notice of substitution by certified mail. The notice of substitution shall include the date the notice was mailed and explain that the trust service provider will not be substituted for the host savings bank for the account if the recipient of the notice sends a written objection to the host savings bank by first-class mail within 30 days after the date the notice was mailed. The host savings bank shall send the notice of substitution to all of the following:

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

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

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

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

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

(f) For irrevocable trusts under agreement, to any co-fiduciary, to the settlor, to each current income beneficiary who is an adult, and, if a current income beneficiary is a minor, to a parent of the minor with whom the minor resides or to the conservator or guardian of the minor. The notice to the settlor shall not grant to the settlor any authority over the trust or trustee that the settlor did not have before the notice, including the authority to object to the substitution of a trust service provider for a host savings bank. For purposes of this subdivision, "current income beneficiary" means a person currently entitled to income or a person to whom the trustee, in the trustee's discretion, may pay principal or income.

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

(h) For conservatorships, to any co-fiduciary, to the protected person for whom the conservatorship was created or, if the conservatorship was created for a minor, to a parent of the minor with whom the minor resides or to the guardian of the minor, and to the probate court that appointed the host savings bank as conservator.

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

(j) For probate estates, to any co-fiduciary, to any interested person as defined by section 1105 of the estates and protected individuals code, 1998 PA 386, MCL 700.1105, and to the probate court that appointed the host savings bank as personal representative.

(7) Subsections (1), (5), and (6) apply to trust service agreements in effect on or after July 1, 1996.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 63, Eff. Apr. 1, 2000;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3423 Separation of trust department business from commercial bank business; commingled and consolidated funds; limitation; lien on securities in event of savings bank failure.

Sec. 423. (1) A savings bank exercising a trust power under sections 421 to 427 shall segregate all assets held in a fiduciary capacity from the general assets of the bank, keep a separate set of books and records showing in proper detail all transactions engaged under sections 421 to 427, and at all times keep the savings bank's trust department business separate and distinct from the savings bank's commercial banking business.

(2) Funds, at any time and from time to time, held in trust by the savings bank, awaiting investment or other disposition, may be commingled and consolidated, and may be deposited in other financial institutions not affiliated with the savings bank as designated by the board of directors or may be held at any time and from time to time by the savings bank under a deposit relationship and used by the savings bank in the conduct of the savings bank's individual corporate business but only to the extent and when the savings bank shall set aside for the protection of the owners of the funds obligations of the United States, obligations that are guaranteed fully as to principal and interest by the United States, general obligations of this state or of any political subdivision of this state, or other securities approved by the commissioner equal at face value to the amount of the funds held, less the amounts of the funds which are insured by the federal deposit insurance corporation. If the savings bank fails, the owners of the funds held in trust, awaiting investment or other disposition, shall have a lien on the securities set apart in addition to any other claims against the savings bank.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3424 Fiduciary powers; considerations.

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

(a) The sufficiency of the capital and surplus of the applying savings bank.

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

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

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3425 Repealed. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

Compiler's note: The repealed section pertained to commencement of trust powers.

487.3426 Fund or property held by savings bank as fiduciary; investments; "registered investment company" defined; funds considered as held in fiduciary capacity.

Sec. 426. (1) Funds or property held by a savings bank as fiduciary and available for investment shall be invested at the time and in the manner specified by the agreement, instrument, or order creating or defining the trust or other capacity in which the savings bank is acting or, where the savings bank holds the funds or property as agent, as directed or permitted by the savings bank's principal. In the absence of investment specifications or limitations in the agreement, instrument, or order, funds or property held by a savings bank as fiduciary shall within a reasonable time be invested in real or personal property, of whatever type or nature, as an ordinarily prudent person of intelligence and integrity who is a trustee of the money of others would purchase, in the exercise of reasonable care, judgment, and diligence under the conditions existing at the time

of purchase, having due regard, in the case of a purchase of securities, for the management, reputation, and stability of the issuer and the character of the particular securities.

(2) Except as otherwise provided by law, a court order, or the agreement, instrument, or order creating or defining the trust, or other capacity in which the savings bank is acting or with the consent of all interested parties or their representatives, or where the savings bank holds the funds or property as agent, as directed or permitted by the savings bank's principal, funds or property held by a savings bank as fiduciary shall not be invested in any securities or other properties, real or personal, purchased from the savings bank in its individual capacity or from any affiliate of the bank.

(3) Notwithstanding a statutory or common law, except when the agreement, instrument, or order creating or defining the trust or other capacity in which the savings bank, or the savings bank and 1 or more co-fiduciaries, is acting, prohibits the investment, a savings bank, or a savings bank and 1 or more co-fiduciaries, may invest in a registered investment company funds or property with respect to which the savings bank, or the savings bank and 1 or more co-fiduciaries, exercises investment discretion, even though either or both of the following apply:

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

(b) The savings bank as fiduciary owns or controls a majority of the voting shares of the investment company or a majority of the shares voted for the election of its directors or trustees or the savings bank as fiduciary otherwise controls the election of a majority of its directors or trustees.

(4) As used in subsection (3), "registered investment company" means an investment company that is registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-64.

(5) For purposes of this section, a savings bank is considered to be holding funds or property in a fiduciary capacity if it is holding the assets as trustee, personal representative, custodian, conservator, guardian, agent, or in any other fiduciary capacity.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3427 Enforcement of MCL 487.3421 to 487.3426; orders or declaratory rulings.

Sec. 427. The commissioner may issue orders or declaratory rulings to enforce sections 421 to 426.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3428 Safe deposit and storage department.

Sec. 428. (1) If a savings bank operates a safe deposit and storage department, the legal liability of the savings bank on account of any loss to a customer shall not exceed the sum of \$10,000.00 for any 1 box or compartment, including all property accepted for storage outside of the box or compartment. The savings bank may contract with the renter to have the renter assume all risks arising from the use of the box, compartment, or storage.

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

(3) After retaining from the proceeds of sale the amount of all charges due and owing at the time of the sale and the reasonable expenses of the sale, the savings bank shall pay any balance to the persons entitled to the proceeds. The savings bank may fairly and in good faith purchase all or part of the property at the sale.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3429 Lease, purchase, holding, and conveyance of real estate.

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

(a) For the convenient transaction of its business, including with its banking offices other space in the same buildings to rent as lessor. Without the approval of the commissioner, a savings bank shall not invest in premises of the savings bank or in the stock, bonds, debentures, or other obligations of any corporation holding the premises of the savings bank or make loans to or upon the security of the stock, bonds, and debentures of any such corporation, if the aggregate of all investments and loans, together with the amount of any indebtedness incurred in connection with a bank premises real estate transaction by any such corporation which is an affiliate of the savings bank, exceeds 2/3 of the capital and surplus of the stock savings bank or 2/3 of the total capital of the mutual savings bank.

- (b) As permitted under section 408.
- (c) For all purposes with regard to real estate conveyed to it in satisfaction of debts previously contracted in the course of its business.
- (d) For all purposes with regard to real estate purchased at sales under judgments, decrees, or mortgages held by the savings bank or purchased to secure debts due to it.
- (e) For all purposes with regard to real estate legally owned by the savings bank on the effective date of this act.
- (f) For all purposes with regard to real estate conveyed to it under sections 421 through 427.
- (g) For all purposes with regard to real estate acquired in connection with the purchase by the savings bank of a land contract. At the termination of a land contract, the savings bank shall divest itself of the real estate within 1 year after termination or such additional period as the commissioner may approve.
- (h) For all purposes with regard to real estate acquired upon the specific request and for the use of a customer by lease arrangement with the savings bank. At the termination of a lease, the savings bank shall divest itself of the real estate within 1 year after termination or such additional period as the commissioner may approve.
- (i) Any other purposes as may be permitted by order or declaratory ruling of the commissioner.
- (2) Real estate shall be conveyed under the corporate seal of the savings bank and the signature of the officers authorized by its board of directors to approve the conveyance.
- (3) Real estate acquired under subsection (1)(c) and (d) shall not be held for a period longer than 5 years or such other period as approved by the commissioner.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3430 Interest and charges on loans and credit extensions.

Sec. 430. (1) Savings banks may collect interest and charges on loans and extensions of credit, including open-end credit to any person, as follows:

- (a) As permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.
- (b) On obligations purchased by the savings bank, the savings bank may charge a discount.
- (c) On a loan not covered by subdivision (a) or (b), a savings bank may charge, collect, and receive interest and other charges in the same manner and at up to maximum rate or amount permitted by law for the same type of loans made by national banking associations authorized to do business in this state.
- (d) On a loan not covered by subdivision (a), (b), or (c), as otherwise permitted by law.
- (2) A savings bank or any officer or employee of the savings bank shall not, directly or indirectly, take or receive more than the rate of interest allowed by law in advance on its loans and discounts.
- (3) Except as otherwise provided by law, an investigation fee or handling charge in connection with any transaction shall not be considered as interest.
- (4) A savings bank may pay interest on any deposit that is payable on demand, unless the commissioner by rule, or order, or declaratory ruling restricts the right of the savings bank to pay interest on demand deposits or unless restricted by federal law.

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3431 Drafts or bills of exchange.

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

- (a) The drafts or bills of exchange grow out of transactions involving the importation or exportation of goods.
- (b) The drafts or bills of exchange grow out of transactions involving the domestic shipment of goods.
- (c) The drafts or bills of exchange are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.
- (2) Except as provided in subsection (3), a savings bank shall not accept bills of exchange, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150% of the capital and surplus of a stock savings bank and more than 150% of the total capital of a mutual savings bank.
- (3) Under conditions as the commissioner may prescribe, the commissioner may authorize, by rule, order, or declaratory ruling, a savings bank to accept bills of exchange, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200% of the capital and surplus of a stock savings bank and more than 200% of the total capital of a mutual savings bank.
- (4) Notwithstanding subsections (2) and (3), with respect to any savings bank, the aggregate acceptances, including obligations for a participation share in the acceptances, growing out of domestic transactions shall

not exceed 50% of the aggregate of all acceptances, including obligations for a participation share in the acceptances, authorized for the savings bank under this section.

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

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

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3432 Loans and extensions of credit and leases; limitations; exceptions; definitions.

Sec. 432. (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 stock savings bank to a person at no time shall exceed 15% of the capital and surplus of the stock savings bank, except that upon approval by 2/3 vote of its board of directors the limit may be increased not to exceed 25% of the capital and surplus of the stock savings bank.

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

(3) If the commissioner determines 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.

(4) A savings bank is not considered to have violated this section through section 434 solely by reason of the fact that the indebtedness of a group then held exceeds the limitations of this section through section 434 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 savings bank shall make a reasonable attempt to 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.

(5) The limitations under subsections (1) and (2) shall not apply to loans and extensions of credit described in sections 433 and 434.

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

(a) "Loan and extension of credit" or "loan or extension of credit" includes all direct or indirect advances of funds to a person made on the basis of an obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person. To the extent specified by the commissioner, loan and extension of credit or loan or extension of credit includes any liability of a savings bank to advance funds to or on behalf of a person under a contractual commitment. Such term also includes the cost of purchase of personal property for the purpose of leasing the property to a person. Loan and extension of credit or loan or extension of credit does not include investment securities held by a savings bank under section 411.

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

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3433 Loans and extensions of credit; exceptions to limitations.

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

(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.

(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 bank, out-of-state bank, national bank, association, or savings bank of excess reserve balances from time to time maintained under section 19 of the federal reserve act, chapter 6, 38 Stat. 251.

(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 savings bank.

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

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3434 Capital and surplus; limitations.

Sec. 434. All of the following limitations based upon capital and surplus shall apply:

(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 of a stock savings bank, or 30% of total capital of a mutual savings bank, if the 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 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 of a stock savings bank, or 30% of total capital of a mutual savings bank. 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 a person transferring the paper, shall be subject to a limitation of 30% of capital and surplus of a stock savings bank, or 30% of total capital of a mutual savings bank. If the savings 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 savings bank designated for that purpose by the board of directors of the savings bank certifies in writing that the savings 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 savings bank.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3436 Automatic teller machine located on premises of casino, casino enterprise, liquor store, or adult entertainment establishment; preventing access to cash benefits from Michigan bridge card; definitions.

Sec. 436. (1) A savings bank that owns, operates, or manages an automated teller machine located on the premises of a casino, casino enterprise, liquor store, or adult entertainment establishment shall work with the department of human services to ensure that the automated teller machine does not allow an individual access to cash benefits from a Michigan bridge card.

(2) As used in this section:

(a) "Adult entertainment establishment" means any of the following:

(i) An on-premises licensee that holds a topless activity permit described in section 916(3) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1916.

(ii) Any other retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(c) Subject to subsection (3), "casino" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(d) Subject to subsection (3), "casino enterprise" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(e) "Gaming" means that term as defined in section 2 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.

(f) "Liquor store" means a retailer, as defined in section 111 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1111, that is exclusively or primarily engaged in the sale of alcoholic liquor. The term does not include a retailer that is a retail food store.

(g) "Michigan bridge card" means the card that is used to distribute cash benefits by the department of human services.

(h) "Retail food store" means that term as defined in 7 USC 2012.

(3) As used in this section, the terms casino and casino enterprise do not include any of the following:

(a) A grocery store that sells groceries, including staple foods, and is located in a casino or a casino enterprise.

(b) Any other business establishment that offers gaming that is incidental to the principal purpose of that establishment.

History: Add. 2013, Act 196, Eff. Feb. 1, 2014.