

SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

CHAPTER 5
REGULATION

487.3501 Impairment of capital.

Sec. 501. (1) If, in the opinion of the commissioner, the capital of a savings bank has become impaired, the commissioner shall notify the savings bank of his or her determination and require the directors to meet the deficiency in the capital within a 2-month period. The directors shall meet the deficiency by either making a pro rata assessment upon the stock held by each shareholder, or taking steps to dissolve the bank. The 2-month period may be extended by order of the commissioner, if in his or her discretion an extension is necessary to allow the directors to meet the deficiency.

(2) Before an assessment may be made by the directors, each shareholder, secured party, and pledgee indicated on the books of the savings bank as holding an interest in the stock shall be provided with written notice in a manner reasonably calculated to give actual notice of the determination made by the commissioner that the capital of the savings bank is impaired and the amount of the assessment that each shareholder must pay.

(3) If a shareholder refuses or neglects to pay an assessment levied by the directors within 30 days from the date notice was provided, the directors shall sell all or part of the shareholder's shares to the highest bidder in a manner provided in this section. Upon expiration of the 30-day period and refusal or neglect by a shareholder to pay the assessment, a security interest in favor of the savings bank in the amount of the assessment shall attach to all of the shareholder's shares for the sole purpose of satisfying the assessment levied. The security interest shall have priority over any other security interests perfected by a creditor or otherwise granted by the shareholder in shares issued after the effective date of this act.

(4) If the directors fail to restore the capital of the savings bank or take steps to dissolve the savings bank during the 2-month period following notice from the commissioner and any extension granted under subsection (1), the commissioner may appoint a receiver for the savings bank in accordance with this act.

(5) If any part of the capital of a savings bank consists of preferred stock, the determination of whether the capital of the savings bank is impaired and the amount of the impairment shall be based upon the par value of its stock even though the amount that the holders of the preferred stock shall be entitled to receive in the event of retirement or dissolution shall be in excess of the par value of the preferred stock.

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

(7) If, 30 days after notice as provided in this section, a shareholder has refused or neglected to pay an assessment levied on the shares held by the shareholder, the directors may sell any or all of the shareholder's shares to satisfy the assessment. The proceeds of the sale shall be distributed in the following order:

(a) The reasonable expenses of holding for sale and selling the stock in a manner not prohibited by law, including reasonable attorney fees and legal expenses incurred by the savings bank.

(b) The satisfaction of the assessment levied by the directors.

(c) The satisfaction of an indebtedness secured by any security interest in the stock if written notification demanding proceeds is received by the savings bank before distribution of the proceeds is completed. Unless the holder of a security interest provides reasonable proof of the interest, the savings bank does not have to comply with this subdivision.

(d) Any remaining surplus shall be distributed to the shareholder.

(8) Disposition of the stock may be at a public or private sale at any time and on any terms, but every aspect of the disposition including the method, manner, time, place, and terms shall be commercially reasonable and reasonably calculated to meet the deficiency.

(9) A sale of stock as provided in this section shall effect an absolute cancellation of any outstanding certificates evidencing the stock sold and any security interest granted or pledge made in stock issued after the effective date of this act. Upon full payment of the stock sold, the savings bank shall issue new certificates to the purchaser.

(10) The purchaser takes the stock free of any rights or interests the shareholder may have based on an unintentional failure by the savings bank to comply with this section if all of the following apply:

(a) The purchaser has no knowledge of any defect in the proceedings.

(b) The purchaser does not act in collusion with any shareholders of the savings bank, a secured party, other bidders, or the savings bank.

(c) The purchaser makes the purchase in good faith.

(11) The ability of a savings bank to make an assessment under this section or to sell the stock of a shareholder under this section is not limited by the uniform commercial code.

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

487.3502 Violations; liability of directors or officers.

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

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

487.3503 Officer or employee as agent in sale of stock or securities; prohibition.

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

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

487.3504 Receipt of consideration or gratuity prohibited.

Sec. 504. An officer, director, or employee of a savings bank shall not receive any consideration or gratuity from a borrower for procuring a loan from the savings bank.

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

487.3505 Surety bonds; protection against insurable losses.

Sec. 505. (1) The board of directors shall require every employee concerned in the handling of money, accounts, or securities of the savings bank, who can be bonded, to be bonded by a surety company authorized to do business in this state in an amount determined by the board. A surety bond may cover 1 or more employees. The savings bank shall pay for any surety bonds required of its employees.

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

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

487.3506 Reports; penalty for failure to report.

Sec. 506. (1) The commissioner may require reports from a savings bank whenever, in the commissioner's judgment, they are necessary to inform the commissioner fully as to the condition of the savings bank. The commissioner may require publication of reports and proof of publication by a date determined by the commissioner and in the manner and form as the commissioner may prescribe, except that the commissioner shall give a bank at least 30 days written notice of the date required for the publication of reports.

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

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

487.3507 Regulation and prescription of terms, conditions, bylaws, and rules by board of directors.

Sec. 507. Notwithstanding any other provision of law, the board of directors of a savings bank, with the approval of the commissioner, may regulate and prescribe the terms, conditions, bylaws, and rules under which deposits, other funds and assets may be received, conserved, paid out, withdrawn, or otherwise disposed of whenever in the opinion of the commissioner an emergency exists in the affairs of a savings bank and the action is advisable to conserve, safeguard, and protect depositors, borrowers, deposits, moneys, funds, assets, and the business of the savings bank and all parties in interest, including the public.

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

487.3508 Pledge of assets.

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

(2) A savings bank may pledge its assets in an amount not in excess of 10% of its total assets for the purpose of securing the following:

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

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

(c) Funds of the Mackinac bridge authority, which is declared to be a political subdivision of this state, under 1950 (Ex Sess) PA 21, MCL 254.301 to 254.304.

(d) Funds of the international bridge authority, which is declared to be a political subdivision of this state, under 1954 PA 99, MCL 254.221 to 254.240.

(e) Funds on deposit under 1941 PA 205, MCL 252.51 to 252.64, providing for limited access highways.

(f) Funds on deposit to the credit of the Michigan employment security commission.

(g) Funds of the Michigan state housing development authority constituting proceeds of the sale of the authority's notes and bonds and repayments of those notes and bonds, under the state housing development authority act of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

(h) Funds belonging to any political subdivision of this state.

(i) Funds belonging to any federally recognized Indian tribe.

(j) Funds representing the proceeds of a grant or loan from a department or agency of the United States, the award of which is conditioned upon the recipient depositing the proceeds in an account secured by a pledge of assets of the depository institution.

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

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

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

(b) In the case of federal home loan bank members, liabilities incurred under the federal home loan bank act, chapter 522, 47 Stat. 725.

(c) Liabilities incurred under former section 202 of title II of the federal farm loan act.

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

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

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

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 1997, Act 50, Imd. Eff. June 30, 1997;—Am. 2000, Act 482, Imd. Eff. Jan. 11, 2001.

487.3509 Deposit by savings bank; limitation.

Sec. 509. Except where required or permitted under the federal reserve act, chapter 6, 38 Stat. 251, or the federal home loan bank act, chapter 522, 47 Stat. 725, a savings bank shall not deposit an amount in excess of 10% of the capital and surplus of a stock savings bank, or 10% of the total capital of a mutual savings bank, with any other savings bank, state chartered bank, association, or national bank. A savings bank may deposit an amount not to exceed 15% of the capital and surplus of a stock savings bank, or 15% of the total capital of a mutual savings bank in any legal depository in a reserve city designated by the commissioner.

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

487.3510 Insolvency; transfer of assets null and void.

Sec. 510. A transfer of any assets of a savings bank to its shareholders or members, or to its creditors made after the commission of an act of insolvency or made in contemplation of insolvency, with a view to preventing the application of its assets in the manner prescribed by this act, or with a view to the preference of

1 creditor over another, is null and void.

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

487.3511 Property or casualty insurance as condition to mortgage loan.

Sec. 511. (1) Except as provided in subsection (2), a savings bank that requires a mortgagor to maintain property or casualty insurance as a condition to receiving a mortgage loan shall not require the amount of the property or casualty insurance to be greater than the replacement cost of the mortgaged building or buildings.

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

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

487.3512 Overdrafts.

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

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

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

History: 1996, Act 354, Imd. Eff. July 1, 1996;—Am. 2009, Act 58, Imd. Eff. July 2, 2009.

487.3514 Repealed. 2005, Act 192, Imd. Eff. Nov. 7, 2005.

Compiler's note: The repealed section pertained to filing of a suspicious activity report by a savings bank with a federal government agency.