

BANKING CODE OF 1999 (EXCERPT)
Act 276 of 1999

487.13504 Discharge of duties; liability; commencement of action; violation; statute of limitations.

Sec. 3504. (1) A director or an officer of a bank shall discharge the duties of his or her position in good faith and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a director or an officer, when acting in good faith, may rely upon the opinion of legal counsel for the bank, upon the report of an independent appraiser selected with reasonable care by the board or by an officer of the bank, or upon financial statements of the bank certified to him or her to be correct by an officer of the bank, or as stated in a written report by an independent public or certified public accountant or firm of accountants to reflect fairly the financial condition of the bank.

(2) The articles of incorporation of a bank may provide that a director is not personally liable to the bank or its shareholders for monetary damages for a breach of the director's fiduciary duty. The provision does not eliminate or limit the liability of a director for any of the following:

- (a) A breach of the director's duty of loyalty to the bank or its shareholders.
- (b) Acts or omissions not in good faith or that involve intentional misconduct or knowing violation of law.
- (c) A violation of section 2312.
- (d) A transaction from which the director derived an improper personal benefit.

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

(4) If a director or officer of a bank knowingly violates, or knowingly permits any of the agents, officers, directors, or employees of the bank to violate, this act, rules promulgated under this act, or an order or declaratory ruling of the commissioner, every director and officer who participated in or assented to the violation shall be held liable in his or her personal and individual capacity for all damages that the bank, any shareholder, or any other person sustains as a result of the violation. An action to recover damages under this section shall be brought within 3 years from the time of the violation.

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