

SAVINGS AND LOAN ACT OF 1980 (EXCERPT)
Act 307 of 1980

ARTICLE 5

491.500 Additional powers of association.

Sec. 500. An association organized under this act shall have all of the powers enumerated, authorized, or permitted by this act, and other rights, privileges, and powers as are incidental to those powers or reasonably necessary or appropriate to the accomplishment of the purposes of the association. In addition to those powers specifically enumerated in this act, an association may exercise the following powers:

- (a) To sue and be sued, complain, and defend in any court.
- (b) To acquire, purchase, hold, and convey real and personal property consistent with the association's objects and purposes.
- (c) To mortgage, pledge, or lease any real or personal property for the association's own use.
- (d) To take property by gift, devise, or bequest.
- (e) To have a corporate seal, which may be affixed by imprint, facsimile, or otherwise.
- (f) To appoint officers, agents, and employees as the association's business requires and allow them suitable compensation.
- (g) To provide for life, health, and casualty insurance for officers and employees and adopt and operate reasonable bonus plans and retirement benefits for those officers and employees.
- (h) To become a member of, own stock or investment certificates in, deal with, pay premiums to, or make contributions to any service corporation or safe deposit company.
 - (i) To service mortgages and land contracts.
 - (j) To originate and service mortgage loans, mortgages, and land contracts on behalf of other financial institutions, corporations, and state or federal agencies or instrumentalities.
 - (k) To operate from temporary headquarters or offices if necessary due to enemy attack or natural disaster.
 - (l) To act as fiscal agent of the United States 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.
 - (m) To act as agent for an instrumentality of the United States, for this state, or for an instrumentality of this state.
 - (n) To act as escrow agent or depository for other escrow agents or fiduciaries for the holding of money as custodian or in trust for others.
 - (o) To be a member of a federal home loan bank or its successor.
 - (p) To become a member of a check clearing facility established for the purpose of facilitating the handling of negotiable checks, drafts, or withdrawal orders, and to satisfy any requirements for membership in a clearing facility.
 - (q) To invest in financial options to hedge an association's interest risks.
 - (r) To perform 1 or more of the following services:
 - (i) Credit analysis, appraising, construction loan inspection, and abstracting.
 - (ii) Research studies and surveys.
 - (iii) Developing and operating storage facilities for microfilm or other duplicate records.
 - (iv) 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.
 - (v) Liquidity management, investment, advisory, and consulting services.
 - (vi) Establishing, owning, leasing, operating, or maintaining remote service units.
 - (vii) Purchasing office supplies, furniture, and equipment.
 - (s) Provide 1 or more of the following services:
 - (i) Preparing local, state, and federal tax returns for individuals or organizations that are not corporations operated for profit.
 - (ii) Providing data processing service.
 - (iii) Other activities as the supervisor, by rule, determines to be appropriate.
 - (t) To own and operate a messenger service or to own or invest in a corporation that operates a messenger service.
 - (u) 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, Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.
 - (v) To own an insurance agency in whole or in part as provided under Act No. 218 of the Public Acts of

1956.

History: 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1987, Act 106, Imd. Eff. July 7, 1987;—Am. 1993, Act 89, Imd. Eff. July 9, 1993;—Am. 1994, Act 382, Eff. Mar. 30, 1995.

491.502 Hours of operation; establishment; change; notice; closing of offices.

Sec. 502. An association shall establish the hours of each day during which its offices shall be open to serve the public. The established hours of each office shall be posted on the premises of the office. An association may change its established hours of operation by posting continuous and conspicuous notice of change in hours not less than 10 days before the date of the change. Each office of an association shall remain open during the established hours, except that the office may temporarily cease operations to protect the security of the office operations or the safety of employees during an emergency, in which case the office shall post notice of the cessation upon the premises. Transactions performed on the next succeeding business day following an unscheduled closing of an association due to an emergency may be considered to have been performed on the day of the closing where necessary to conform to law, rule, or court order, or to prevent a default under an agreement. An association may also close any or all of its offices during established hours on a business day to commemorate an event of special significance to the association or the community in which the office or offices are located, after posting notice of the temporary closing upon its premises.

History: 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1987, Act 106, Imd. Eff. July 7, 1987.

491.504 Safe deposit and storage business.

Sec. 504. An association or a service corporation may operate a safe deposit and storage business and provide proper vaults and premises for the safe deposit and storage business. The legal liability of an association or a service corporation due to a loss to a customer in connection with a safe deposit and storage business shall not exceed the sum of \$10,000.00 for a box or compartment, including all property accepted for storage outside of the box or compartment. An association or service corporation may contract with the renter to have the renter assume all risks arising from use of the box, compartment, or storage, and shall have a lien for unpaid rental and storage charges on the contents of a box or compartment. If the charges are not paid within 1 year after the date of accrual, an association or service corporation may sell the property at public auction, upon notice as is required by law for sales on execution. 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, an association or service corporation shall pay the balance, if any, to the persons entitled to the balance. An association or service corporation may fairly and in good faith purchase the property, or any part of the property at the sale.

History: 1980, Act 307, Eff. Jan. 1, 1981.

491.506 Trust powers of association.

Sec. 506. Upon application to and approval by the supervisor, an association may exercise trust powers subject to the conditions, limitations, and restrictions set forth by the supervisor. The trust powers of an association may include the following:

(a) In and by its corporate name and acting as a corporate fiduciary, to take, receive, and hold, and repay, reconvey, and dispose of any effects and property, both real and personal, which may be granted, committed, transferred, or conveyed to the association with its consent, upon terms or upon a trust at any time, by any person, including minors, or bodies corporate or by a court, including a federal court, in this state, and to administer, fulfill, and discharge these trust duties for remuneration as may be 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; the collection of principal and interest on mortgages, bonds, notes, and securities for money, and to enforce the payment thereof.

(c) To accept and to execute the offices of executor, administrator, personal representative, trustee, receiver, conservator, liquidating agent, assignee, or guardian of a minor, aged or infirm person, mental incompetent, or a person subject to guardianship under the laws of this state applicable to guardianship. In all cases when application is made to a court in this state for the appointment of a trustee, receiver, executor, administrator, personal representative, or guardian of a minor, aged or infirm person, mental incompetent, or any other person subject to guardianship, the court may appoint an association, with the association's consent, to hold the office. The accounts of the association as trustee, receiver, conservator, liquidating agent, assignee, administrator, personal representative, executor, or guardian shall be regularly settled and adjusted by the proper officer or tribunal. All proper, legal, usual, and customary charges, costs, and expenses shall be allowed to an association for the care and management of an estate committed to the association. In case of appointment by a court, the association shall not be required to give security except in the discretion of the

court, other than as provided in section 510 for deposit with the state treasurer, and if the court orders the association 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 an association is required, in the course of the administration of a 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 an act or default committed by the association before the date of the filing and approval of the bond, for the failure of the association to pay over on final settlement, if the failure to pay over is due to an act or default committed before the filing and approval of the bond, or for the failure of the association to collect from itself or from a prior surety or sureties the amount of a loss due to an act or default committed by the association before the date of the filing and approval of the bond.

(d) To exercise by the association's board or authorized officers or agents, subject to law, all incidental powers as are necessary to carry on a trust business.

History: Add. 1981, Act 114, Imd. Eff. July 17, 1981.

491.508 Segregation of assets held in fiduciary capacity; books and records; keeping trust department business separate and distinct; commingling, consolidating, and depositing funds held in trust; liquidation of association or appointment of receiver or conservator; lien on securities.

Sec. 508. An association exercising trust powers under this act shall segregate all assets held in a fiduciary capacity from the general assets of the association, shall keep a separate set of books and records showing in proper detail all transactions engaged in under its trust powers, and shall keep its trust department business separate and distinct from other business operations. Funds held in trust by an association awaiting investment or other disposition may be commingled and consolidated, and may be deposited in a financial institution not affiliated with the association as designated by the association's board, or may be held by the association under a deposit relationship and used by the association in the conduct of the association's business but only to the extent and when the association sets aside for the protection of the owners of the funds, obligations of the United States, obligations that are fully guaranteed as to principal and interest by the United States, general obligations of this state or of a political subdivision of this state, or other securities approved by the supervisor equal in face amount to the amount of funds held and so used by the association, less the amounts of the funds which are insured by the federal savings and loan insurance corporation or the federal deposit insurance corporation. In the event of a liquidation of the association or the appointment of a receiver or conservator for the assets of the association, the owners of funds held in trust awaiting investment or other disposition shall have a lien on those securities set apart, in addition to any other claim against the association.

History: Add. 1981, Act 114, Imd. Eff. July 17, 1981;—Am. 1987, Act 106, Imd. Eff. July 7, 1987.

491.510 Deposit of securities with state treasurer as security for trust creditors of association; safekeeping receipt; consideration by court; certificate; interest and income; disposition of securities upon liquidation of association, appointment of receiver, or pursuant to plan of reorganization.

Sec. 510. (1) Before an association may commence exercising trust powers, the association shall deposit with the state treasurer securities of a value equal to not less than \$500,000.00, which shall be obligations of the United States, obligations which are guaranteed fully as to principal and interest by the United States, general obligations of this state or of a political subdivision of this state, or other securities approved by the supervisor. The securities so deposited shall be held by the state treasurer in trust as security for the trust creditors of the association. The state treasurer may accept instead of the actual deposit of the securities a safekeeping receipt from a qualified depository institution designated by the state treasurer, which safekeeping receipt shall acknowledge the possession of the securities and that they are held subject only to the order of the state treasurer. The existence of the deposit of securities and the amount of the deposit shall be considered by a court in connection with the requirement of the court with respect to the giving of security by the association for the discharge of the association's obligations in the execution of the office of executor, administrator, personal representative, trustee, receiver, or assignee, or guardian of a minor, incompetent person, mental incompetent, or a person subject to guardianship. Upon the deposit being made, the state treasurer shall issue a certificate of that fact, and securities or the safekeeping receipts equal in value, to be determined by the supervisor, shall remain on deposit in the state treasury. The state treasurer shall pay over to an association, as soon as collected, the interest and income received on the securities deposited or the state treasurer shall authorize the association to collect the interest and income for the benefit of the association.

(2) If an association goes into liquidation in the manner prescribed by this act, the deposit of securities

shall be returned by the state treasurer to the liquidating committee or liquidating agent appointed for the association to be applied as directed by the supervisor. If a receiver is appointed, the deposit of securities shall be returned to the receiver to be applied as the circuit court may order. If pursuant to a plan of reorganization the deposit of securities is assigned by the association to a liquidating committee, liquidating trustees, or liquidating agents, or if the securities are to be liquidated by the association itself, upon written order of the supervisor, the deposit of securities shall be returned to the liquidating committee, liquidating trustees, liquidating agents, or association, to be applied under the direction of the supervisor.

History: Add. 1981, Act 114, Imd. Eff. July 17, 1981.

491.512 Investment of trust funds.

Sec. 512. Trust funds received by an association 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 holding and, unless otherwise specified in the agreement, instrument, or order, may be invested in the same manner as an individual acting in a similar capacity may invest trust funds under the laws of this state. Trust funds shall not be invested in securities or other properties, real or personal, purchased from the association or from any of the association's affiliates.

History: Add. 1981, Act 114, Imd. Eff. July 17, 1981.

491.513 District bank of federal home loan bank system as trustee or custodian; powers; books and records; commingling investment funds.

Sec. 513. A district bank of the federal home loan bank system may serve as trustee or custodian and exercise trust powers with respect to any account or accounts within the contemplation of the self-employed individuals tax retirement act of 1962, Public Law 87-792, 76 Stat. 809, and the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829, and as trustee, custodian, or manager of an investment fund the authorized investments of which includes savings accounts or real estate loans, and the beneficial interests which may be represented by transferable shares or certificates, where an association or a federal association serves as the depository for that account or investment fund. A district bank exercising the limited trust powers provided in this section shall keep separate books and records detailing the transactions made for each distinct investment fund held in a fiduciary capacity and for each beneficial owner's interest in the fund, and may commingle the investment funds held in a fiduciary capacity for purposes of investment.

History: Add. 1981, Act 114, Imd. Eff. July 17, 1981.

491.514 Borrowing.

Sec. 514. An association may borrow money from any source for any of the association's corporate purposes, when authorized by the board of the association. An association may assign or pledge any of its assets or properties as collateral security for borrowings for any of its corporate purposes.

History: 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1987, Act 106, Imd. Eff. July 7, 1987.

491.515 Brokerage services; rules; "securities" defined.

Sec. 515. (1) Subject to the applicable state or federal law, an association or a service corporation established by an association may provide brokerage services for the offer, sale, or purchase of securities or commodity contracts. The commissioner may promulgate rules to clarify and enforce this section.

(2) For the purposes of this section, "securities" means securities as defined in section 102c of the uniform securities act (2002), 2008 PA 551, MCL 451.2102c.

History: Add. 1987, Act 106, Imd. Eff. July 7, 1987;—Am. 2009, Act 95, Eff. Oct. 1, 2009.

491.516 Capital notes, bonds, or debentures; issuance and sale; requirements; unsecured indebtedness; subordination to claims of depositors or general creditors; status in liquidation; statement of rights and priorities of lenders; inclusion in net worth.

Sec. 516. An association may issue and sell its capital notes, bonds, or debentures with the prior approval of the supervisor and subject to any sinking fund or other conditions the supervisor may impose. In addition, a stock association shall obtain the prior approval of members owning more than 50% of the issued and outstanding shares of voting stock of the association to issue convertible capital notes, bonds, or debentures. Capital notes, bonds, and debentures shall be an unsecured indebtedness of the association and shall be subordinate to the claims of depositors and other general creditors of the association, regardless of whether the claims of depositors or general creditors arose before or after the issuance of capital notes, bonds, or debentures. In the event of liquidation, all depositors and other general creditors of the association shall be paid in full before a payment is made on the principal or interest on capital notes, bonds, or debentures.

Capital notes, bonds, and debentures shall contain a statement of the rights and priorities of the lenders. The amount of outstanding capital notes, bonds, or debentures legally issued by an association shall be included in the net worth of the association for purposes of this act.

History: 1980, Act 307, Eff. Jan. 1, 1981.

491.518 Shares of capital stock without voting rights; authorization and issuance.

Sec. 518. With the approval of the supervisor, a mutual association or a stock association may authorize and issue shares of capital stock without voting rights and which have other rights, preferences, and characteristics that are permitted by rules promulgated by the supervisor.

History: 1980, Act 307, Eff. Jan. 1, 1981.

491.520 Operation of association from principal office; branch office or agency; remote service unit; moving branch office or agency.

Sec. 520. An association shall be operated from its principal office located in this state. All branch offices, agencies, and other facilities shall be subject to direction from the principal office. An association shall not establish a branch office or agency for transacting business without prior approval of the supervisor. An association may establish and operate a remote service unit in accordance with Act No. 322 of the Public Acts of 1978, without prior approval of the supervisor. Except for a mobile branch, a branch office or agency of an association shall not be moved without approval of the supervisor as provided in section 522.

History: 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1993, Act 89, Imd. Eff. July 9, 1993.

491.522 Branch office; establishment or relocation; application; notice; examination or investigation; oral argument; approval; announcement of decision; revocation of approval; request for extension; establishment of mobile branch.

Sec. 522. (1) Except as otherwise provided in subsection (4), an association shall not establish or relocate a branch office for the transaction of business without application to and approval by the supervisor. Within 10 days after acceptance of an application for permission to establish a branch office, the supervisor shall send written notice of the application by mail to the principal office of each association and federal association. The supervisor shall make an independent examination or investigation of each branch application, and in furtherance of the investigation, may cause oral argument to be heard concerning the application within 60 days after receipt of an application. The conduct of the oral argument shall conform to rules promulgated by the supervisor and shall not be subject to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(2) If it appears that the proposed branch office has a reasonable probability of success and that the net worth of the association is adequate with respect to the general operating policies and financial condition of the association, the supervisor shall approve and file the application with the date of filing indorsed on the application and shall announce a decision concerning the application within 90 days after acceptance of the application. The supervisor also shall file in the supervisor's office a written memorandum stating the reasons supporting the decision, which memorandum shall be available for public inspection pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(3) If the branch office authorized is not established within 6 months after the date authority is granted, the approval shall be revoked automatically unless a written request for an extension is made to the supervisor not less than 10 days before termination of the 6-month period and the supervisor grants the extension.

(4) An application to establish a mobile branch shall contain a statement by the applying association that it intends to move the location of the physical structure of the branch office from time to time. A branch office established pursuant to this subsection shall be considered a mobile branch from the date the application is approved by the supervisor. The supervisor shall not require advance notice of or a schedule showing the location of a mobile branch.

History: 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1993, Act 89, Imd. Eff. July 9, 1993.

491.524 Agent of association; activities; procedures; record of business transacted; report.

Sec. 524. An agent of an association may carry out the activities which are authorized by rule of the supervisor. The establishment of an agency by an association shall be subject to the procedures which shall be required by rule of the supervisor. Each agent of an association shall keep a record of business transacted for the association and shall promptly report to the association.

History: 1980, Act 307, Eff. Jan. 1, 1981.

491.526 Net worth structure.

Sec. 526. Each association shall maintain an adequate net worth structure appropriate for the conduct of its business and the protection of its depositors. As determined by the supervisor, the net worth adequacy of an association shall be analyzed and appraised in relation to the character of its management, the liquidity of assets, history of earnings and of the retention thereof, the potential volatility of the deposit structure, and the association's capacity to furnish the broadest service to the public.

History: 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1981, Act 114, Imd. Eff. July 17, 1981;—Am. 1987, Act 106, Imd. Eff. July 7, 1987

491.528 Interest or no interest on deposit accounts; classification of accounts; different rates.

Sec. 528. An association may pay interest on deposit accounts at the rate and time, for the time or notice period, and upon the terms and conditions as are determined by the written agreement between an association and the depositor. An association may classify deposit accounts according to the character, amount, or duration of the account or the regularity of additions to the account, and may agree in advance to pay a different rate of interest, or not to pay interest, on 1 or more of the classes of deposit accounts based on the classification, if all depositors within each class of accounts are treated equally for purposes of receiving interest.

History: 1980, Act 307, Eff. Jan. 1, 1981.

491.530 Cash dividends on common stock; restrictions; dividends on preferred stock.

Sec. 530. (1) The board of a stock association may declare and pay cash dividends on outstanding shares of common stock subject to the following restrictions:

(a) A dividend shall not be declared or paid unless the association has combined retained earnings and capital in excess of par amounting to not less than 20% of stated capital after payment of the dividend.

(b) A dividend shall be declared or paid only from either the association's net income or from retained earnings. All debts due the association on which interest is past due and unpaid for a period of 6 months, unless the debts are well secured and in process of collection, or the debts constitute claims against solvent estates in probate, shall be considered bad debts within the meaning of this section.

(2) As used in this section "net income" means the remainder of all earnings from operations plus actual recoveries on loans and investments and other assets previously charged off, after deducting from the total all operating expenses, actual losses, accrued dividends on preferred stock, accrued interest on capital notes, bonds, or debentures, all taxes, and recognizing extraordinary gains and losses.

(3) An association may pay dividends on the preferred stock of the association at the rate as may be applicable notwithstanding the limitations of this section.

History: 1980, Act 307, Eff. Jan. 1, 1981.

491.532 Increasing capital stock by stock dividend; conditions; certificates required.

Sec. 532. A stock association with the approval of the supervisor may increase its capital stock by declaration of a stock dividend with respect to the capital stock. After the increase, the combined capital in excess of par and retained earnings of the association shall be at least equal to 20% of the association's stated capital as increased. An increase shall not be effective until a certificate of the declaration of dividend, signed by an executive officer of the association, and acknowledged before a notary public is transmitted to the supervisor and the supervisor's certificate is obtained specifying the amount of the increase of capital stock by stock dividend and the supervisor's approval of the increase.

History: 1980, Act 307, Eff. Jan. 1, 1981.