

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

ARTICLE 7

491.700 Investment of funds; venture capital investments; other lending or investment powers not limited; definitions; approval of investments in other categories by commissioner.

Sec. 700. (1) Subject to rules promulgated by the commissioner, an association may invest its funds in the following categories of assets:

(a) Obligations or securities of, or fully guaranteed as to principal and interest by, the United States or any of the agencies of the United States, or for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest, or for which annual contributions to be paid under contract by the United States or any of its instrumentalities under the national housing act, 12 U.S.C. 1701 to 1750g, are pledged for payment of principal and interest.

(b) Obligations of a state of the United States, or an agency or authority of a state for which the full faith and credit of the state is pledged to provide payment of principal and interest.

(c) Obligations of this state or an agency or authority of this state for which specific revenues are pledged to provide payment of principal and interest.

(d) Obligations of a school district or political subdivision of this state.

(e) Bankers' acceptances eligible for purchase by federal reserve banks and any corporate obligations approved for investment purposes by the supervisor.

(f) Stock, bonds, or other obligations of a federal home loan bank, the federal savings and loan insurance corporation, the federal deposit insurance corporation, a corporation or agency of the United States or of this state to the extent that the corporation or agency requires the investment as a means of furthering or facilitating an association's purposes, and any service corporation, partnership, or other organization approved by the supervisor that assists in furthering or facilitating an association's purposes.

(g) Demand, time, or savings deposits or accounts or other obligations of a financial institution the accounts of which are insured by a federal agency or instrumentality.

(h) Under a plan approved by the supervisor, savings accounts or certificates of deposit with banks whose deposits are recognized by the federal home loan bank board for liquidity purposes.

(i) Shares or certificates in any open-end management investment company registered with the securities and exchange commission under the investment company act of 1940, chapter 686, 54 Stat. 789, while the portfolio of the company is restricted by its investment policy, changeable only by vote of the shareholders, to investments eligible for liquidity pursuant to federal home loan bank board regulations.

(j) Stock, bonds, or other obligations of any business and industrial development corporation licensed and supervised by this state.

(k) Small business investment companies formed under section 301(d) of the small business investment company act of 1958, 15 U.S.C. 681.

(l) A finance subsidiary wholly owned by 1 or more associations whose sole purpose is to issue debt or equity securities of the type that the association is authorized to issue directly, or, if a mutual association, would be authorized to issue if it converted to stock form, and to remit the net proceeds of such issuance to the association.

(m) Any class of voting securities of a bank organized and chartered under the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.15105, or the national bank act, chapter 106, 13 Stat. 99, and engaged exclusively in providing services to depository institutions or their officers, directors, and employees, or a bank holding company that owns or controls a bank organized and chartered under the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.15105, the national bank act, chapter 106, 13 Stat. 99, if the stock of a bank holding company is owned exclusively, except to the extent directors' qualifying shares are required by law, by depository institutions, as defined in the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.15105, and if all subsidiaries of the company engaged exclusively in serving depository institutions or their officers, directors, and employees. The amount of securities of a bank or bank holding company held by an investing association shall not exceed 20% of the net worth of the investing association.

(2) Subject to the limitations contained in this act, an association 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.

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

50% of such company.

(4) An association's investment pursuant to subsection (2) in any 1 entity shall not exceed an amount equal to 5% of the net worth of the association, and all investments under subsection (2) shall not exceed an amount equal to 10% of the net worth of the association.

(5) This section does not limit the authority of an association to exercise lending or investment powers that are otherwise authorized by law.

(6) As used in this section:

(a) "Professional investor" means an investment company registered under the investment company act of 1940, 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 is dedicated to investing in equity or debt securities and whose net worth exceeds \$500,000.00 prior to the association'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, 15 U.S.C. 78 l; that are registered or required to be registered under section 12(g) of title I of the securities exchange act of 1934, 15 U.S.C. 78l; or which would be required to be so registered except for the exemptions in section 12(g)(2) of title I of the securities exchange act of 1934.

(7) The commissioner is authorized to approve investments in other categories of assets that the commissioner determines are consistent with this act. Those investments shall be subject to limitations as determined appropriate by rule of the commissioner.

History: 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1987, Act 106, Imd. Eff. July 7, 1987;—Am. 2000, Act 365, Imd. Eff. Jan. 2, 2001.

Administrative rules: R 491.101 et seq. of the Michigan Administrative Code.

491.702 Real estate loans and land contracts; making or purchasing; limitations; security; provisions and recordation of security instruments; extension or renewal of real estate loan or contract; interests in real estate upon which association may lend money.

Sec. 702. (1) Subject to rules promulgated by the supervisor, an association or a federal association may make or purchase real estate loans and land contracts pursuant to this section.

(2) A real estate loan or land contract shall not be originated or purchased by an association in excess of 90% of the current appraised value of the real estate secured, nor shall any real estate loan be made where the total of all loans secured by the real estate exceeds 90% of the current appraisal value of the real estate, except in the following instances:

(a) The total of the real estate loan and all other loans senior to the loan secured by the real estate may equal not more than 100% of the current appraised value of real estate, if either of the following occurs:

(i) Repayment of the real estate loan or land contract is insured or guaranteed in an amount not less than 10% of the loan by the United States or this state, by an agency or instrumentality of either of them, by any other private corporation approved by the supervisor, or under the provisions of the national housing act, 12 U.S.C. 1701 to 1750g, or the veteran's housing amendments act of 1976, Public Law 94-324, 90 Stat. 720.

(ii) The association establishes and maintains a specific reserve with respect to the real estate loan equal to 1% of the unpaid principal balance of the loan until the unpaid principal balance has been reduced to 90% of the current appraised value.

(b) The total of the real estate loan and all other loans senior to the loan secured by the real estate may equal not more than 95% of the current appraised value of real estate, if the real estate is improved or will be improved by a dwelling in which the borrower in good faith intends to reside.

(3) Each real estate loan shall be secured by a mortgage or other security instrument constituting a lien upon the real estate securing the loan. If a loan is secured by a leasehold interest the borrower shall agree to repay the loan within the leasehold term and to subrogate to the association all rights of the lessee under the leasehold. All security instruments shall provide the association with full protection with respect to loan and additional advances, the usual insurance risks, taxes, assessments, governmental levies, maintenance, and repairs, and may provide for an assignment of rents that shall be absolute upon the borrower's default and become operative upon demand of the association. All security instruments shall be recorded as provided by law.

(4) An association shall not extend or renew a real estate loan made or a contract purchased under this section if, as renewed or extended, the loan or contract fails to comply with the limitations and provisions of

this section at the time of the renewal or extension.

(5) For purposes of this section, a certificate of stock or other evidence of ownership in, or a proprietary lease from, a corporation or partnership formed for the purpose of cooperative ownership of residential real estate, and in interest in a condominium dwelling unit constitute interests in real estate upon which an association may lend money.

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

491.702a Property/casualty insurance as condition to loan; limitation on amount required; amount as condition of sale, transfer, or assignment.

Sec. 702a. (1) Except as provided in subsection (2), an association or federal association that requires a mortgagor to maintain property/casualty insurance as a condition to receiving a mortgage loan shall not require the amount of the property/casualty insurance to be greater than the replacement cost of the mortgaged building or buildings.

(2) An association may require an amount of property/casualty insurance that is required of the association 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 association anticipate a sale, transfer, or assignment at the time the mortgage loan is made.

History: Add. 1995, Act 199, Imd. Eff. Nov. 29, 1995.

491.704 Additional types of loans association may make or purchase; limitation.

Sec. 704. (1) In addition to real estate loans permitted under section 702, an association may make or purchase the following types of loans:

(a) Loans for which repayment has been wholly or partially guaranteed or insured by the United States or this state or an agency of the United States or this state.

(b) Loans made to finance the purchase of mobile homes for use as a residential dwelling or for resale to others in the ordinary course of the borrower's business.

(c) Loans made for the purpose of paying expenses of higher education, for maintaining, repairing, modernizing, altering, landscaping, improving, constructing, furnishing, or equipping of real estate properties or for purposes not otherwise authorized by this act. The aggregate of all unsecured loans made pursuant to this subdivision to any 1 borrower shall not exceed 1/4 of 1% of the association's assets, 5% of the association's net worth, or \$15,000.00, whichever is greater. The loans may be made by a service corporation and may also be made pursuant to an existing credit card arrangement or other agreement existing before the loan whereby the association or the service corporation honors the borrower's draft, pays or agrees to pay the borrower's obligations, purchases the borrower's obligation, or advances money to or for the account of the borrower. If the loan is secured by a lien or interest in real estate, the loan shall not be subject to the percentage of appraised value tests applicable to real estate loans under section 702(2). Loans made under this subdivision 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 debt constitutes a claim against solvent estates in probate, shall be charged off at the expiration of the 6-month period.

(d) Loans on the sole security of a savings account with the association to the extent of the withdrawal value of the savings account.

(e) Loans secured by time or savings deposits or accounts in a financial institution the accounts of which are insured by a federal agency, to the extent of the withdrawal value of the account.

(f) Loans secured by the pledge of policies of life insurance, the assignment of which is properly acknowledged by the insurer, to the extent of the cash value of the policies.

(g) Loans secured by the pledge of real estate loans of a type in which the association is authorized to invest, subject to all restrictions and requirements that would be applicable if the association were to invest directly in the loans.

(h) Loans on individual cooperative housing units on the security of a first security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization and the assignment by way of security of the borrower's interest in the proprietary lease or right of tenancy in property covered by the organization. The loans shall be made in accordance with the regulations governing loans secured by single family dwellings, but they shall not exceed 90% of the value of the property securing the loan.

(i) Loans for other than primarily personal, family, or household purposes.

(2) After any loan is made or purchased by an association pursuant to this section, the total of all loans made by the association pursuant to this section shall not exceed 40% of the association's total assets as determined at the end of the preceding calendar month.

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

491.706 Participation in making or acquiring loan; sale of loan or of participation in loan.

Sec. 706. An association may participate with others as a participant, comortgagee, or covendor in making or acquiring a loan if the loan conforms with this act. An association may sell a loan or participation in a loan without regard to whether the loan conforms to the requirements and limitations of this act, but this section shall not permit an association to make or purchase a loan that does not conform with this act.

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

491.708 Appraisal of real estate securing loan; copy; fee; nonliability for contents or accuracy; reappraisal of real estate securing delinquent loan; appraisal of real estate at time of acquisition.

Sec. 708. A real estate loan authorized by section 702 shall not be made until a qualified person selected by the lending association has submitted a signed appraisal of the real estate securing the loan. A person making a loan application shall be furnished a copy of the appraisal if the person has paid a fee for the appraisal, but an association shall not be liable to the owner of the real estate or a prospective borrower for the contents or accuracy of the appraisal or the fact that it has been furnished to the person making a loan application. The supervisor may require a reappraisal of real estate securing a delinquent loan. Each parcel of real estate acquired by an association shall be appraised at the time of its acquisition. Each written report of appraisal required by this section shall be kept with the records of the association.

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

491.710 Investment in purchase and development of real estate for sale or construction of residential or commercial units.

Sec. 710. An association may invest not more than 10% of its total assets in the purchase and development of real estate for sale or for the improvement of real estate by the construction of residential or commercial units for sale or rental purposes.

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

491.711 Association as owner or lessor of personal property; proceeds of lease transaction as rent; taxation; limitation on acquisition of personal property.

Sec. 711. (1) An association may become the owner or lessor of personal property which is acquired by the association on the specific request and for the use of a customer of the association. An association may incur any obligations it considers necessary to become the owner or lessor of such personal property.

(2) The proceeds of a lease transaction made pursuant to subsection (1) shall constitute rent, not interest.

(3) Unless otherwise provided by law, this section shall not exempt from general property taxation any personal property of an association which is leased to and used by a private individual, association, or corporation in connection with a business conducted for profit. Such 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 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 personal property. When due, the taxes shall constitute a debt due from the lessee or user to the local unit of government for which the taxes were assessed.

(4) Notwithstanding the restrictions under subsection (1), an association may acquire and hold personal property, including equipment, for the purpose of leasing the property or obtaining an assignment of a lessor's interest in a lease of the property. An association shall not acquire personal property under this subsection, if the acquisition shall result in an inventory of personal property not leased in excess of 20% of the association's net worth.

History: Add. 1987, Act 106, Imd. Eff. July 7, 1987.

491.712 Investment in land, buildings, and real estate for transaction of business.

Sec. 712. An association may invest an amount up to the greater of its net worth, or 5% of its total assets, in the land, buildings, and real estate as is or may be reasonably anticipated to be necessary or convenient for the transaction of its business, from a portion of which revenue may be derived by rentals or otherwise.

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

491.714 Investment in service corporation.

Sec. 714. An investment by an association in a service corporation shall not exceed 5% of the association's

total assets unless the investment has been approved by the supervisor and all investments shall be subject to limitations and approvals established by rules promulgated by the supervisor.

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

Administrative rules: R 491.101 et seq. of the Michigan Administrative Code.

491.716 Limitations on loans to one borrower.

Sec. 716. Excluding the guaranteed portion of loans made pursuant to sections 702 and 704 and lease transactions made pursuant to section 711(1), an association shall not make a loan or commit to make a loan to any 1 borrower, if at the time the loan or commitment is made the sum of the amount of the loan or commitment and the total balance of all outstanding loans owed to the association and its affiliated service corporations by the borrower exceeds 50% of the net worth of the association, 1% of the total assets of the association, or \$250,000.00, whichever is greater. As used in this section, “borrower” means any of the following:

(a) Any person or business entity that is, or upon the making of a loan will become, the obligor on a loan.

(b) Any nominee of the obligor on a loan.

(c) All persons, trusts, partnerships, syndicates, corporations, and other organizations of which the obligor on a loan is a nominee, beneficiary, general partner, member, or beneficial owner of 10% or more of the capital stock.

(d) If the obligor is a business entity, all trusts, partnerships, syndicates, corporations, and other organizations of which any beneficiary, general partner, member, or beneficial owner of 10% or more of the capital stock of the obligor is also a beneficiary, general partner, member, or beneficial owner of 10% or more of the capital stock.

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

491.718 Interest on loans.

Sec. 718. (1) On all loans other than loans under subsection (2), (3), or (4), or section 702, an association or federal association may charge simple interest computed on the basis of the unpaid balance in an amount not to exceed 14.55% per year.

(2) For an installment loan for the purchase of a motor vehicle, an association or federal association may charge simple interest computed on the basis of the unpaid balance in an amount not to exceed 16.5% per year, except that on installment contracts for a loan made after December 31, 1985, for the purchase of a motor vehicle, an association or federal association may charge simple interest computed on the basis of the unpaid balance in an amount not to exceed 14.55% per year. Notwithstanding any other provision of this act, on a loan made pursuant to this subsection an association or federal association may require a borrower to pay reasonable and necessary charges which are the actual expenses incurred by the association or federal association in connection with making, closing, disbursing, extending, readjusting, or renewing the loan. Charges pursuant to this subsection shall be in addition to the interest authorized by law and are not part of the interest collected or agreed to be paid on the loan.

(3) On credit card arrangements or other agreements existing before the loan which are authorized by section 704(1)(c), an association or a service corporation may charge a discount of not more than 5% of the gross amount of obligations purchased by the association and may collect simple interest on the unpaid balance in an amount not to exceed 1.5% per month.

(4) On a loan secured by a lien, which is not a first lien against single family residential real property, and on a loan of less than \$100,000.00 secured by a lien which is not a first lien against real property other than a single family residence, an association may collect simple interest in an amount not to exceed 15% per year on the unpaid balance of the loan. This subsection shall not impair the validity of a transaction or rate of interest lawful without regard to this subsection.

History: 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1981, Act 54, Imd. Eff. June 1, 1981;—Am. 1981, Act 163, Imd. Eff. Dec. 2, 1981;—Am. 1982, Act 321, Imd. Eff. Dec. 3, 1982;—Am. 1984, Act 359, Imd. Eff. Dec. 27, 1984.

491.720 Application of payments on real estate loans.

Sec. 720. Unless otherwise agreed upon by the association and a borrower, payments on real estate loans shall be applied first to the payment of interest on the unpaid balance of the loan and the remainder to the reduction of principal. If the real estate loan is in default in any manner, payments may be applied as determined by the lending association.

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

491.722 Notes as evidence of loans.

Sec. 722. Each loan made or acquired by an association shall be evidenced by a note for the amount of the loan. The note shall specify the amount, rate of interest, terms of repayment, and may contain all other terms of the loan contract.

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

491.724 Real estate loans; taxes, assessments, insurance premiums, and similar charges; payments; assignment of life insurance as additional collateral.

Sec. 724. An association or federal association may pay taxes, assessments, insurance premiums, and other similar charges for the protection of its real estate loans. The amounts of all the payments may be added to the unpaid balance of the loan and shall be equally secured by the lien on or security interest in the property as provided in this act. An association or a federal association may require life insurance to be assigned as additional collateral upon a loan. In that event, the association or federal association shall obtain a lien upon the policy and may advance premiums on the policy, which premium advances shall be added to the unpaid balance of the loan and shall be equally secured by the lien on the property.

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

491.726 Real estate loans; taxes, assessments, insurance premiums, and other charges; monthly payment in advance or in arrears; disposition of funds; record.

Sec. 726. In addition to interest or interest and principal payments, an association or federal association may require the borrower to pay monthly in advance or in arrears, the equivalent of 1/12 of the estimated annual taxes, assessments, insurance premiums, and other charges upon the real estate securing a loan, or another amount permitted under the real estate settlement procedures act of 1974, Public Law 93-533, 88 Stat. 1724, so as to enable the association to pay the charges as they become due from the funds received. The association may hold the funds for future payment or may credit the funds to the indebtedness and pay the taxes, insurance, or other charges. Each association shall keep a record of the status of taxes, assessments, insurance, and other charges on all real estate securing the association's loans and on all real and other property owned by the association.

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

491.728 Loan to minor veteran and spouse; prohibited action.

Sec. 728. A veteran who is a minor, together with his or her minor spouse, may contract liability in this state for repayment to an association of a loan made pursuant to the veteran's housing amendments act of 1976, Public Law 94-324, 90 Stat. 720, or a similar federal or state law, and a veteran or spouse of a veteran shall not void a contract to repay the loan to an association or shall the veteran or spouse interpose in defense of an action arising out of the loan the fact that either or both of them were minors at the time the loan was made.

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

491.730 Loan charges and fees; loan settlement statement.

Sec. 730. (1) An association, or a federal association, except as federal law or regulation provides otherwise, may require a borrower to pay reasonable and necessary charges which are actual expenses incurred by the association or federal association in connection with the making, closing, disbursing, modifying, renewing, or refinancing of a real estate loan, plus a loan processing fee. Actual expenses include those incurred for recording, title examination and abstracting, mortgagee's title insurance, mortgage insurance, appraisal, survey, credit report, construction draws, and preparation of papers. In addition, an association or federal association may require a borrower to pay a fee to fund the specific reserve permitted with respect to a real estate loan made pursuant to section 702(2)(a)(ii), if a fee structure for this purpose has been approved by the supervisor. An association or federal association may also require a borrower to pay reasonable and necessary charges which are the actual expenses incurred by the lender in connection with the making, closing, disbursing, extending, readjusting, or renewing of a loan authorized by section 704 and may require a borrower to pay a loan processing fee. Charges pursuant to this subsection shall be in addition to the interest authorized by law and are not part of the interest collected or agreed to be paid on a loan within the meaning of a law that limits the rate of interest which may be exacted in such a transaction.

(2) Loan costs paid by a borrower under this section shall be in addition to interest authorized by law, shall not be considered to be a part of the interest collected or agreed to be paid on the loan within the meaning of a law of this state which limits the rate of interest which may be exacted in a transaction, and shall not be considered to violate a law of this state.

(3) An association shall furnish a detailed loan settlement statement to each borrower upon the closing of

the loan, indicating the loan costs paid or to be paid by the borrower under this section. A copy of the statement shall be retained in the records of the association for not less than 25 months after the closing of the loan. A settlement statement furnished to a borrower that is designed to comply with the real estate settlement procedures act of 1974, 12 U.S.C. 1730f, 1831b, and 2607 to 2617, shall be considered to satisfy the requirements of this section.

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

491.732 Acquisition of real estate in satisfaction of obligation.

Sec. 732. An association may acquire real estate in satisfaction of an obligation to the association and may purchase at a sale, public or private, any real estate upon which the association has a mortgage, judgment, lien, or other encumbrance, and may sell, exchange, lease, or mortgage real estate so acquired or purchased to a person, notwithstanding any other provision of this act.

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

491.736 Liability for defect in real property.

Sec. 736. An association or federal association which 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 so 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, except that this section shall not apply where the association or federal association is acting other than solely as a lender, where the association or federal association has been a party to misrepresentation with respect to the property, or where the officers or directors of the association or federal association have acted in collusion or complicity with another party responsible for the defect, loss, or damage. If the association, or an agent of the association is involved in the decision making process with regard to purchase, design, manufacture, construction, repair, modification, or improvement of real property it shall become as liable as the first party involved in the process.

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